

**Supreme Court of the United States**

**October Term, 1932**

**No. 13**

**CONSOLIDATED CASES OF SUPREMACY OF NEW YORK,  
INC., AND ITS AFFILIATED COMPANIES, ET AL,  
PETITIONERS**

**NATIONAL LABOR RELATIONS BOARD ET AL.**

**No. 25**

**INTERNATIONAL BROTHERHOOD OF ELECTRICAL  
WORKERS, INTERNATIONAL BROTHER-  
HOOD OF ELECTRICAL WORKERS LOCAL UNION  
NO. 8-221, ET AL, PETITIONERS,**

**NATIONAL LABOR RELATIONS BOARD ET AL.**

**ON WRIT OF HABEAS CORPUS TO THE UNITED STATES CIRCUIT COURT  
OF APPEALS FOR THE SECOND CIRCUIT**

**RECEIVED FOR CONSIDERATION FILED** { **APRIL 8, 1933.**  
**APRIL 11, 1933.**

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*Note:* The Transcript of Testimony as hereinafter printed shows the numbering of the pages of the *Stenographic Minutes*, as well as the numbering of the printed pages. The pages of the *Stenographic Minutes* are referred to as S. M.; the pages of the printed record as R.

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## BOARD'S EXHIBITS

Exhibit No.		Marked for Identification		In evidence		Print at Pag
		S. M. Page	Printed Page	S. M. Page	Printed Page	
1	Charge filed with the Board by United Electrical and Radio Workers affiliated with the Committee for Industrial Organization, dated May 5, 1937 .....			4	135	4
	Complaint issued by the Board, by its Regional Director for the Second Region, dated May 12, 1937 (with the various subsequent amendments shown) .....			4	135	7
	Acknowledgments and proofs of service of the complaint and notice of hearing .....			4	135	17
	Amended notice of hearing, dated May 25, 1937, issued by the Board .....			4	135	34
	Affidavit of service of amended notice of hearing .....			4	135	35
2	Stipulation of facts for the determination of the question of jurisdiction .....			23	151	1318
3	Pamphlet issued by the Consolidated Edison Company of New York, Inc., in August, 1936, entitled "Serving New York, electricity, gas, steam" (not printed; may be referred to in the Transcript of Record filed) .....			24	152	
4	Copy of an Order of the Board, dated June 2, 1937, denying the petition and motion of the respondent Companies for a prior and separate hearing as to jurisdiction and for dismissal of the complaint for want of jurisdiction .....			41	166	38
5	Notice of motion by the Board, served on respondent Companies on June 9, 1937, to amend its complaint by adding the name of Stephen L. Solosy as one of the persons named in Paragraph 19 of the original complaint as having been discharged by respondent Companies .....			41	166	40
	One side of an application or pledge card of the International Brotherhood of Electrical Workers (not printed; may be referred to in the Transcript of Record filed) .....	177	270	179	271	

**Note:** By stipulation of the parties and Order of this Court, various of the exhibits are not printed, but may be referred to, by the Court or by the parties, in the Transcript of Record as certified and filed by the Board.



## Board's Exhibits (Continued)

Exhibit No.		Marked for Identification		In evidence.		Printed at Page
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7	The other half of a pledge card of the International Brotherhood of Electrical Workers (not printed; may be referred to in the Transcript of Record filed).....	178	270	179	271	
8	Copy of the Constitution and By-laws of the United Electrical and Radio Workers of America (not printed; may be referred to in the Transcript of Record filed) .....			373	413	
9	Constitution of the International Brotherhood of Electrical Workers affiliated with the American Federation of Labor (not printed; may be referred to in the Transcript of Record filed) .....	382	420	1500	1252	
10	Letter dated November 1, 1934, from Mr. Wersing to Mr. Kennedy .....			714	670	1390
11	Copy of the Employees' Representation Plan of The New York Edison Company, Inc. (not printed; may be referred to in the Transcript of Record filed).....			879	787	
12	Reply dated January 4, 1937, of Mr. Edward P. Prezzano to Mr. Straub's letter (Respondents' Exhibit No. 15) .....			945, 1500	839, 1252	1391
13	(Produced at the request of the Board) Letter from Mr. D. W. Tracy, President of the International Brotherhood of Electrical Workers, to Mr. Floyd L. Carlisle, dated April 16, 1937 .....			987, 1500	871, 1252	1392
13 (a)	(Produced at the request of the Board) Reply by Mr. Carlisle to Mr. Tracy, dated April 20, 1937 .....			987, 1500	871, 1252	1393
14	(Produced at the request of the Board) Memorandum of Agreement between Consolidated Edison Company of New York, Inc., and International Brotherhood of Electrical Workers through its Local Union B829, dated June 15, 1937.....	987	871	1448	1213	1394
15	Letter from Mr. D. W. Tracy to Mr. Ganley, dated April 21, 1937 .....			1027	903	1406
16	Notice by employees of Westchester Lighting Company that the International Brotherhood of Electrical Workers Local B832 had become the bargaining agent for its members among the employees of Westchester Lighting Company (not printed; may be referred to in the Transcript of Record					

## Board's Exhibits (Continued)

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17	(Produced at the request of the Board) Photostat copy of the employment record of Eleanor Misbach for the months of April and May, 1937 (not printed; may be referred to in the Transcript of Record filed) .....	1229	1050	1230	1051	
18 (a), (b), (c)	(Produced at the request of the Board) Photostat copies of employment record of Eleanor Misbach for October and December, 1936, and February, 1937 (not printed; may be referred to in the Transcript of Record filed) .....			1236	1055	
19 (1)	(Produced at the request of the Board) Foreman's daily report and attached work order of May 12, 1937, as to A. Martini (not printed; may be referred to in the Transcript of Record filed) .....			1249	1065	
19 (2)	(Produced at the request of the Board) List of the Delegates and Officers of the Employees' Representation Plan, with their employment records, showing any overtime (not printed; may be referred to in the Transcript of Record filed) .....			1412	1184	
20	(Produced at the request of the Board) Summary of charges and accounts covering "general welfare—collective bargaining" and "employees' representation plan" accounts—1934-1937 (not printed; may be referred to in the Transcript of Record filed) .....			1433	1202	

### EXHIBITS OF RESPONDENT COMPANIES (PETITIONERS HEREIN)

- 1 Certified copy of judgment roll filed June 2, 1937, in *Consolidated Edison Company of New York, Inc., et al., v. Lamar Hardy, et al.*, District Court of the United States for the Southern District of New York, Index No. *Eq. 81-377* (not printed; may be referred to in the Transcript of Record filed)

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*Note:* By stipulation of the parties and Order of this Court, various of the exhibits are not printed, but may be referred to, by the Court or by the parties, in the Transcript of Record as certified and filed by the Board.

# Respondents' Exhibits (Continued)

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	Stipulation and Order <i>pro confesso</i> , dated January 29, 1936 .....			34	160	
	Order <i>pro confesso</i> , dated March 10, 1936 .....			34	160	
	Order of April 14, 1936, by Honorable Henry W. Goddard, United States Dis- trict Court, substituting the name of Consolidated Edison Company of New York, Inc., in place and stead of the name "Consolidated Gas Company of New York" (with affidavit on which Order was granted) .....			34	160	
	Decree <i>pro confesso</i> , dated October 23, 1936 .....			34	160	
	(The above documents from the judg- ment-roll are not printed herein, but may be referred to in the Transcript of Record filed.)					
2	Certified copy of the Opinion of Caffey, U.S.D.J., in entering the above judgment...			34	160	1400
3	Notice of motion by respondent Compa- nies, with affidavit, dated May 17, 1937, for prior and separate hearing as to juris- diction and to dismiss complaint and charge for want of jurisdiction (Part of Board's Exhibit No. 1) .....					
4	(Produced at the request of the Board) Employee rating card of Mr. William J. Kennedy (not printed; may be referred to in the Transcript of Record filed) .....	714	670	1523	1269	
5	(Produced at the request of the Board) Letter of Mr. John F. Emler to Mr. Frank W. Smith, dated November 20, 1936 (not printed; may be referred to in the Transcript of Record filed) .....			756	701	

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Exhibit No.		Marked for Identification		In evidence		Printed at Page
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6	(Produced at the request of the Board) Employee rating card of John F. Emler (not printed; may be referred to in the Transcript of Record filed) .....	756	701	1523	1269	
7	Verified answer on behalf of the respon- dent Companies to the complaint of the Board as amended as to June 14, 1937....	901	804	1501	1253	42
8	Copy of Employees' Representation Plan adopted by employees of The Bronx Gas and Electric Company (not printed; may be referred to in the Transcript of Record filed) .....	912	812	931	827	
9(1)	Letter, dated July 15, 1936, from Harry J. Straub, Chairman, Third General Council of the Employees' Representation Plan of The Bronx Gas and Electric Company, to Mr. E. P. Prezzano (not printed; may be referred to in the Transcript of Record filed) .....			926	823	
9(2)	Mimeographed circular requesting a vote by employees of The Bronx Gas and Elec- tric Company on a plan of electing repre- sentatives for collective bargaining (not printed; may be referred to in the Tran- script of Record filed) .....	920	826	930	826	
10	Printed communication to the employees of The Bronx Gas and Electric Company, dated April 11, 1934, accompanying copy of the Plan (Exhibit No. 8) (not printed; may be referred to in the Transcript of Record filed) .....			931	827	
11	Printed letter on the letter-head of The Bronx Gas and Electric Company, dated April 11, 1934 (not printed; may be re- ferred to in the Transcript of Record filed)	931	828	1500	1252	
12	Form of ballot used by employees in elect- ing tellers to conduct their vote on April 17, 1934 (not printed; may be referred to in the Transcript of Record filed) .....			932	828	
13	Form of ballot containing propositions voted on by the employees in the election of April 17, 1934 (not printed; may be referred to in the Transcript of Record filed) .....			932	829	



# **Respondents' Exhibits (Continued)**

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14	Enrollment blank for enrollment of employees to vote and take part in the nomination and election of representatives under the Employees' Representation Plan (not printed; may be referred to in the Transcript of Record filed) .....	934	830			
15	Letter of Mr. Harry J. Straub to Mr. Edward P. Prezzano, President of the Westchester Lighting Company and The Bronx Gas and Electric Company .....			935	831	1416
16	Membership of employees in the Local Unions of the International Brotherhood of Electrical Workers having collective bargaining contracts with Companies of the Consolidated Edison Company group of Companies .....			1448	1212	1418
17	(Produced at the request of the Board) Memorandum of Agreement between Consolidated Edison Company of New York, Inc., and the International Brotherhood of Electrical Workers, and its Local Union No. B830 (gas employees), dated June 15, 1937 .....	1470	1229	1471	1230	1419
18	(Produced at the request of the Board) Memorandum of Agreement between Consolidated Edison Company of New York, Inc., and the International Brotherhood of Electrical Workers, and its Local Union No. B829 (electric employees), dated June 15, 1937 (printed as Board's Exhibit No. 14) .....	1470	1229	1471	1230	1394
19*	(Produced at the request of the Board) Memorandum of Agreement between Brooklyn Edison Company, Inc., and the International Brotherhood of Electrical Workers, and its Local Union No. B825, dated May 28, 1937 (not printed; may be referred to in the Transcript of Record filed) .....	1470	1229	1471	1230	
20*	(Produced at the request of the Board) Memorandum of Agreement between New York and Queens Electric Light and Power Company and the International Brotherhood of Electrical Workers, and					

\* Respondents' Exhibits Nos. 17, 18, 19, 20, 21 and 22 are generally similar in form, with variances as to particular Companies and services; for form and substantial contents, see Exhibit No. 17 as printed.

## Respondents' Exhibits (Continued)

Exhibit No.		Marked for Identification		In evidence		Printed at Page
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	its Local Union No. B839, dated June 1, 1937 (not printed; may be referred to in the Transcript of Record filed) .....	1470	1229	1471	1230	
21*	(Produced at the request of the Board) Memorandum of Agreement between Westchester Lighting Company and The Yonkers Electric Light and Power Company and the International Brotherhood of Electrical Workers, and its Local Union No. B832, dated May 28, 1937 (not printed; may be referred to in the Transcript of Record filed) .....	1471	1229	1471	1230	
22*	(Produced at the request of the Board) Memorandum of Agreement between New York Steam Corporation and the International Brotherhood of Electrical Workers, and its Local Union No. B826, dated June 16, 1937 (not printed; may be referred to in the Transcript of Record filed) .....	1471	1229	1471	1230	
23	(Produced at the request of the Board) Memorandum of Agreement between the International Electrical Workers Union and its Local Union No. 3 (Inside Workers), and The New York Edison Company, dated January 29, 1924 (not printed; may be referred to in the Transcript of Record filed) .....			1495	1248	
24 *	Pamphlet entitled "A Call for Special Vote by All Employees of The New York Edison Company and The United Electric Light and Power Company," to be held on November 22, 1933, with copy of Plan for Collective Bargaining Through Employee Representation .....			1502	1254	1431
25	Letter dated June 28, 1937, to the National Labor Relations Board, from counsel for the respondent Companies .....			1577	1309	1463
25(a)	Reply by the National Labor Relations Board, dated July 2, 1937; to the letter of June 28, 1937, from counsel for the respondent Companies .....			1577	1309	1467

\* Respondents' Exhibits Nos. 17, 18, 19, 20, 21 and 22 are generally similar in form, with variances as to particular Companies and services; for form and substantial contents, see Exhibit No. 17 as printed.

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Q. Yes. A. I don't think so.

Q. Are you sure about that? A. I am sure that I did not supply them, if that's what you mean.

Q. You are sure that you have none here? A. I have not any, no.

Q. You spoke this morning of your request to Mr. Snider some time in March or April of 1935 to be transferred from this night work on cash posting to a day job?

A. That's correct.

Q. And certainly long before that you had been openly circularizing employees and publishing interviews and articles in the paper over your name as president of the local, hadn't you? A. That depends on what you mean by "long".

1490

Q. Well, I— A. A period of several months, I would say yes, but—

Q. A period, say, of at least six months before April of 1935? A. It is quite possible, yes.

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Q. Well, wouldn't you recognize it as certainly at least six months before that that you were openly and notoriously the president of this local union of the Brotherhood? A. I resent the "notoriously".

1491

Q. Well, perhaps I am using the expression of the word more accurately than you would, but as a matter of common knowledge, you weren't concealing it, were you, in the newspapers and in the circulars and in the magazines or leaflets which you handed out, weren't you known as the president of this independent Brotherhood? A. Yes, I was, I would say I was, in the Queens Local.

Q. And it had been for—that had been true for at least six months before you made this application for transfer to day work? A. Yes, I think so.



1492

*Martin A. Wersing—For N.L.R.B.—Cross*

Q. And when was the transfer to day work granted?

A. I believe I started the work on day work in the stores accounts division on May 1, 1935.

Q. So that was within—within a very short time after you had made the request of Mr. Sneider for the transfer? A. Correct.

Q. And when you speak of Mr. Sneider, you are referring to Mr. Harry L. Sneider, who was formerly the president of the New York Queens Electric Light & Power Company, but who retired a year or two ago?

1493

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A. That's right.

Q. Now, that transferred you to the auditor's department, and in what bureau? A. When I first started off, I think, well the job was in the inventory section of the company, I was supposed to be in, however, the stores accounting division which, after I learned the routine of the job, in a couple of days, I went up there.

Q. And that was what was known—were you in what is known as the work order bureau? A. Yes, sir.

1494

Q. And your rating there was still as a second grade clerk? A. That's right.

Q. You spoke about thereafter making an application to be changed, have your rating changed to that of a first grade clerk because the man who had previously had the job was a first grade clerk. A. Yes.

Q. Do you know how long he has held the job before he became a first rate clerk? A. No.

Q. That is an answer. A. Okay.

Q. You don't suggest to this Board that there was anything unusual either in your applying to have your

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rating raised from second grade to first grade clerk, or

that there was anything unusual in that request not being granted within a few months after you entered the bureau? A. I think the facts speak for themselves.

Q. All right, now, isn't it a fact that such applications for raises in the ratings from second grade to first grade clerk were numerous and frequent in the clerical, among the clerical employees of the company? A. I knew of the few people who have tried it.

Q. Now, you spoke this morning as though you regarded your promotion in May of 1935 to day work in this work order bureau as a promotion, I think you said, a somewhat unusual, as a recognition of your ability and service? A. No, I didn't.

1496

Q. But you at least regarded it as a promotion? A. Yes, I would think it was a promotion.

Q. Have you so testified this morning? A. No, I didn't.

Q. The record then will speak for itself, but in any event, it was a change to a status which you wanted, namely, day employment, and in a different bureau or department? A. That is correct.

Q. About how many employees has this New York & Queens Electric Light & Power Company, or did it have, when you were in its employ? A. When I left, there were

1497

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about 4800.

Q. And how many employees, do you know, were there in the accounting department? A. What do you include in the accounting department?

Q. Well, let us take, well, what you might call the accounting and bookkeeping departments, the Consolidated accounting, bookkeeping or, if you want, how many were there in the department in which you did first class posting work? A. I believe there was something like six, seven hundred in that department.

1498

*Martin A. Wersing—For N.L.R.B.—Cross*

Q. And do you know how many there were in the whole accounting department? A. Offhand, I do not.

Q. Now, can you give any idea at all? A. Well, in the main office in Long Island City I would say there were probably 1500.

Q. And how many employees were there during the period of your employment in the auditors' department? A. Well, in the work order and storage accounts, I believe the payroll was also part of the auditors, there were probably two, two hundred and fifty, possibly slightly more.

1499

Q. You spoke this morning about your present employment with the C.I.O., or with the Utilities Division of the C.I.O.? A. Yes.

S. M. 488

Q. That is something which has been in progress since about the first of June of this year? A. That's right.

Q. And you spoke about your salary in that organization as now \$40 per week? A. That is correct.

Q. Is there any contract or memorandum of the terms of your employment in writing? A. No, there is not.

1500

Q. Is the arrangement purely oral? A. Yes.

Q. There is nothing in writing about it that you have ever seen? A. Not that I have ever seen, except the credentials.

Q. When, during the period that you were a member and president and business manager of the Independent Brotherhood of Utility Employees, how many paid-up members did this Queens Local have?

The Witness: Shall I answer that?

Trial Examiner Gates: What reason do you have for not wanting to answer?

*Martin A. Wersing—For N.L.R.B.—Cross*

1501

The Witness: We, by executive board order, had, at that time, an order making it mandatory upon all officials not to submit the number of members paid up or otherwise.

Judge Ransom: I submit, Mr. Examiner, that

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this organization may not have had many members, but if they had a few hundred out of 4800 employees, if the claim is that out of the several hundred discharges and terminations of employment took place during that time, that there were some officers and some members of this brotherhood, we are entitled, certainly, to show that nothing of the sort happened to a vastly greater number.

1502

Trial Examiner Gates: Would there necessarily be any relationship between the membership of the Brotherhood and the present membership in the U.E.&R.W.? It is about the Brotherhood you are inquiring, is it not, Judge Ransom?

Judge Ransom: I am inquiring now about the Independent Brotherhood.

1503

The Witness: Well, I do not believe there would be any connection that might benefit the management between the old membership rolls and the present one.

Trial Examiner Gates: If you have any good reason for being reluctant to answer, why, we will be glad to consider it further, but otherwise I will ask you to answer the question.

The Board, of course, recognizes membership in unions is a matter which perhaps at times should not be disclosed.

The Witness: May I ask you one more question, Mr. Examiner, and that might straighten me



1504

*Martin A. Wersing—For N.L.R.B.—Cross*

out. I have no objection as much to revealing the membership in certain departments as I do have

S. M. 490

to revealing it in other departments where the membership is unknown. Now, if Mr. Ransom has further questions along that line, if he wants to specify it more, then I certainly would request that I be not compelled to answer the question.

1505

Judge Ransom: I am asking now as to the over-all membership of paid-up members, members who have paid their dues in the Independent Brotherhood, Queens Local. I am asking this witness to state under oath what he says as to that membership.

Trial Examiner Gates: Will you state it?

The Witness: Yes, I will state it, but I will appeal to you if he insists upon any more detailed information as to where these members, as to what their connection there might be between those members and the ones we have now. At that time, as I recall it, we had approximately 300 paid up members in the Independent Union.

1506

Q. (By Judge Ransom) And that included, I think you said, both persons who were then employees of the company and those who were former employees of the company? A. As of what date?

Q. Well, as of any date during your connection with the Brotherhood. A. Well, during my connection with the Independent Union, outside of Mr. Wrench, who was discharged or laid off by the company, they were all em-

S. M. 491

ployees of the company until the management added a few more unemployed to the rolls.

Q. But the Brotherhood, the Independent Queens Local union membership was open to former as well as existing employees of the company? A. It was not.

Q. You did not mean to state to the contrary this morning? A. I stated this morning that the rolls consisted of employees and former employees of the company, by that I meant, if you wish me to elaborate on it, I will.

Q. Well, you had better explain what you meant. A. All right, well, you were eligible for membership only if you were an employee and like the company union, once you became laid off, we did not throw you out of the union, you retained your membership, that is what I meant by that.

1508

Q. What you have persistently called "The company union," you mean the system, the plan, as they call it. A. Well—

Q. The plan under which the employees voted and shows their council and representatives for collective bargaining, is that correct? A. That is correct.

Q. How many paid up members did your local union of the I.B.E.W. have during the period of your connection with it? A. About double the amount the Queens had, I should say.

1509

S. M. 492

Q. You mean about double the amount that your Independent Brotherhood Local had had? A. Yes, pretty close to that.

Q. That is somewhere between five and six hundred? A. I think so, yes.

Q. And those were members with dues fully paid? A. They were members which we regarded as being in good standing, I don't know, I have never checked up to see exactly how many members we had or exactly what the status of each and every one of them was.

1510

*Martin A. Wersing—For N.L.R.B.—Cross*

Q. That is, you are surely not meaning to testify that either the Brotherhood or the I.B.E.W. Local had three hundred or five hundred or six hundred, in either case of members with their dues paid up? A. I said that if they were in good standing with the local union.

Q. Well, was good standing contingent upon keeping dues paid to date? A. Within a period of three months.

Q. Within a period of three months? A. Yes, that is the common practice.

1511

Q. You said this morning that up to the time that your local of the I.B.E.W. was formed, or at least up to the time of the formation of the local of the Independent Brotherhood, that you had known of no other labor organization in the Consolidated Edison group of companies,

S. M. 493

by that you did not mean that there were no labor organizations with which the Consolidated Edison had outstanding labor contracts, did you? A. No, that—

1512

Q. That is, you realized, did you not, and knew that since 1924 the New York Edison Company had had an outstanding contract with the International Brotherhood of Electrical Workers? A. Yes, I had read the contract.

Q. In the summer of 1934 you say that you had some others in your department, which was then the Consolidated bookkeeping department of the Queens' Company, presented to your council under the employees representation plan, a petition about wages and employment conditions? A. Yes, sir.

Q. Do you say that petition was under consideration by the council members for one or two months? A. Yes.

Q. Is that correct? A. That's correct.

Q. And that they never did anything about it? A. That's right.

Q. You said that? A. Yes.

S. M. 494

Q. And that they declined to present it to the company or demand action upon it? A. That is correct.

Q. Well, that same spring in 1934, you, as an employee who was already a member of the Independent Brotherhood of Utility Employees, ran for office under this employees representation plan for election as a member of your bureau council? A. That is right.

Q. You were nominated by the petition of the employees of your bureau, some of them? A. As I mentioned before, I don't recall the exact form in which the nomination came about, it was either by petition or on the nominating ballot, it was written in by some of my fellow employees.

1514

Q. In any event, the nomination and the placing of your name on the ballot which was voted for was the action of the employees in your bureau and not your own action? A. That is right.

Q. You did not put yourself up as a candidate, they put you up? A. Well, I figured my willingness—

Q. You were willing? A. Yes.

Q. You had to sign that you were willing to be a candidate? A. Yes.

1515

S. M. 495

Q. But they nominated you? A. That's correct.

Q. And you were balloted on by the employees of your bureau under a secret ballot? A. That's right.

Q. About how many employees were there in your bureau at that time? A. Well, all told, in the consumers accounting, there were six or seven hundred people.

Q. Well, that was the unit? A. Yes, now just what part of those participated in the balloting in my particular section, I don't know, the night force, you see, while a section by itself is not entitled to its own representative

1516

*Martin A. Wersing—For N.L.R.B.—Cross*

having less than fifty people employed in it, so they were mixed in with others.

Q. That is presumably the unit for which the council representing the employees was being nominated and elected was the whole bureau, whether day or night, was it not? A. They were different divisions in the bureau.

1517

Q. Well, do you think the unit was a division within the bureau or the bureau as a whole? A. No, the election was carried out through divisions, with those employees over and above having the privilege of electing a councilman at large; it was divided into sections of 50, one councilman for each 50 people.

S. M. 496

Q. Well, are you able to give any idea as to the number of employees within the unit for which this election took place? A. I received 112 votes, the four of us had within about eight votes of each other, the top man received 120, so I imagine there must have been about that many people involved in our particular division.

Q. So the total number would be something more than 120? A. Yes.

1518

Q. When was this, what you refer to as a plebiscite or referendum vote of employees of the whole company to get the continuance of the system of electing employee representatives in effect? A. At the election period following the formation, the second election, following the formation of 1935, in April or May, the end of April or the first of May.

Q. The plan having been put into effect in 1933? A. '34.

Q. '34? A. Yes.

Q. That was at the time of the second election? A. That's right.

*Martin A. Wersing—For N.L.R.B.—Cross*

1519

Q. And did all the employees ballot upon that question at that time? A. Yes, just as they did the first year, they balloted the second year.

S. M. 497

Q. Do you know what the approximate vote was upon that issue, as to 1935 referendum on the continuance of the electoral plan? A. Yes, there were about 4400 votes cast, 2400 were in favor of continuing the plan.

Q. How many in opposition? A. There were approximately one thousand void, and a thousand "noes."

1520

Q. Did you mean in any way to suggest to this Board that whatever took place as to the discharge of James Mannix was a matter for grievance in any respect? A. No, I did not suggest that. I suggested it was, I stated, rather, it was the business of the local union to protect, if possible, its membership and do whatever it could for any one of its members. I did not say that this particular case, however, presented a just grievance.

Q. And you do not suggest now that there was anything involving labor organization, or any matter of grievance involved in the discharge of Mannix? A. I do not.

1521

Q. But you knew then and you know now it had nothing to do with labor matters, don't you? A. I did not know then. I did not know until after we made our investigation. Then I knew, as I know, that it did not

S. M. 498

involve, so far as we could determine, any issue of unionism. The matters for which Mr. Mannix was discharged were quite justified.

Q. Were what? A. Quite justified.

Q. Now, during the period during which you were in the International Brotherhood of Electrical Workers, he



1522

*Martin A. Wersing—For N.L.R.B.—Cross*

spoke of the incident relative to the discharge or lay-off of, I think it was, James White, an employee. A. John J. White.

Q. John J. White, an employee of the Brooklyn Edison Company? A. Yes.

Q. And his suggestion, I understood you, that that was the first time that the management of any one of the companies had recognized your union, in that they received a committee of fellow employees who were members of the union, and discussed with them the circumstances of the termination of Mr. White's employment?

1523

A. Yes.

Q. That matter was handled entirely by employees with the management, the Brooklyn Edison Company?

A. Not entirely.

Q. Well, so far as the negotiations with the management? A. As far as presenting the facts were concerned, and so forth, yes.

S. M. 499

Q. So far as the general planning and oversight of the matter, was the International Union in the picture?

1524

A. No.

Q. Or the local union officers? A. Local Union—

Q. What? A. Local union officers, yes.

Q. Well, in any event, through the negotiations conducted by this committee of employees, you say that they were able to bring about, did bring about, Mr. White's reinstatement in employment? A. Yes, I think that is accurate. It is not as complete a picture as it might be—

Q. I assume you would like to paint it more, but in any event, Mr. White went back to work? A. Still at work, so far as I know.

Q. And you attribute that to the activities of a committee of employees acting at the instance of a local union of the I.B.E.W.? A. That's right.

Q. You were doing just what work at this work order bureau from the time that you were transferred at your request in May of 1935? A. I was keeping the store's record of transformers and devices used by the New York & Queens.

S. M. 500

Q. Well, now, the stores record, of course, is a part of the continuing operations of the company; is it not? A. It is a loose-leaf perpetual inventory record.

Q. And you spoke of work at the inventory department. What was your relation, if any, to that, during the period of your employment in the audit work or bureau? A. You mean how did I come in contact with it in my work?

1526

Q. I mean, were you doing any of that work? A. No, some of the records which I had occasion to use, they kept. Theirs was a continuous property inventory and they, of course, had a card index on transformers which were out of service, and when one was put on the line, I had to go to the department and pull that particular card and pull it with the in-service, and so forth.

However, I was not connected with it.

1527

Q. When you speak of "they", you mean the inventory department? A. That's right.

Q. The inventory department was another department of the company? A. That's right.

Q. Is that an accurate statement of the matter? That in 1933-1934, there had arisen on the part of the company a need for a continuing property record of their physical

S. M. 501

property? A. I don't know the exact date, but I believe the Public Service Commission requested or instructed them to compile such a record.

1528

*Martin A. Wersing—For N.L.R.B.—Cross*

Q. Well, now, isn't it a fact that this work of preparing what is called a continuing property record, inventory of property, was started and proceeded with under very great pressure by the company, quite a while before there was any order from the Commission which fixed a definite basis or requirement? A. I don't know. The job originally was with fixed capital and it was temporarily in the inventory until they found a permanent place for it in the stores account. That was because of the set-up in the department.

1529

Q. That is, then, as you understand it, is this the picture, that for some years the company had had, was keeping what you might call, a continuous property record, and that was in what department, do you know? A. No, I don't.

Q. But was it part of what is called a fixed capital bureau, or anything of that sort? A. It was a fixed capital bureau.

Q. And they kept a continuing record of physical property by classifications? A. Yes, I believe they did.

S. M. 502

1530

Q. And then there came an occasion for setting up what was called an inventory department? A. Yes.

S. M. 503

Q. And you know how large a department that quite suddenly came to be? A. Yes, I imagine it must have been two or three hundred people in it at one time in Queens.

Q. Now, were those the employees that were in this inventory department for the purposes of that special work, were they men who largely had been brought into that department by transfers from other departments of

that company or of other companies? A. Yes, that's right.

Q. What? A. That's right.

Q. Do you know then whether there then came a time when the need for maintaining so large a force on the inventory work passed and they began to cut down on the inventory department employees? A. No, I do not know.

Q. As far as you know, did the personnel of the inventory department continue with the number that you have stated? A. No, I know it was decreased, you asked me whether or not if I knew of the need for it decreased. I don't know that such a need did decrease.

Q. Well, in any event there came a time when this large force which has been assembled by transfer from other departments, they began to cut it down? A. That's—

S. M. 504

right.

Q. And that reduction took place in the latter part of 1935 and '36? A. That is right.

Q. And do you happen to know whether at that time the work of a continuing property record for this company was placed on what you might call a permanent basis as the result of orders from the Public Service Commission on the subject? A. No, I don't. The only thing I remember in that connection is the hearing Mr. Maltbie of the Public Service Commission tell the Company to get busy and finish the records and that they took on more people, as I understood from that point on.

Q. Can you fix the time of any such statements? A. Well, the merger hearings were last summer, some time.

Q. The—do you mean the merger hearings in which you participated? A. That is right.

Q. Wasn't there an order of the Commission which put that fixed capital work of the continuing property

1534

*Martin A. Wersing—For N.L.R.B.—Cross*

record work on a permanent basis and as a result of which the work was put into the accounting department?

A. That I don't recall.

Q. You wouldn't say that that was not the case? A. No, I did not follow that particular phase of it.

S. M. 505.

Q. And you know that when this fixed capital work was put on a permanent basis that the old inventory force was very much reduced in number? A. No, I don't.

1535

Q. You don't know that? A. No.

Q. Did you mean to leave the impression this morning or this afternoon that only the five persons whom you mentioned were all those employees whose employment was terminated in November, of 1936, on a certain day or at any other time? A. I neither wished to leave the impression or did I so state. I merely stated to my knowledge, my personal knowledge, five people were let go on that afternoon.

Mr. Moscovitz: You mean 1936 or '33?

Judge Ransom: 1935.

1536

The Witness: 1935, I did not mean for the entire month of November either, just the one day, the people I saw, so I know, the 19th of November.

Q. (By Mr. Ransom) You received, you stated, what was called the two weeks allowance of pay at the time your employment was terminated? A. No, I received two weeks salary in lieu of notice, it was not an allowance.

Q. That is your construction of it? A. That is it.

S. M. 506.

Q. You did not receive the separation allowance which was later put in force as to employees whose employment was terminated? A. No, nor did I receive the

separation allowance which had previously been put in force.

Q. Well, that is another question, but in any event you and Mr. Grulich and others brought a suit in the municipal court, did you not? A. That is correct.

Q. And you stated that that grievance in that respect to your counsel? A. That's correct.

Q. Who was your attorney, by the way? A. Charles Bellows.

Q. Were you responsible for the bringing of that action?

Mr. Moscovitz: I object to that question, Mr. Examiner.

Mr. Ransom: I just wanted to connect it.

Mr. Moscovitz: I don't think that is a connection of any importance.

Q. (By Mr. Ransom) He represented you in that action, did he not? A. Yes he did.

Q. And you brought to his attention the facts as to the circumstances under which your employment was terminated? A. Yes, I did.

Q. And you brought the suit to establish the claim of rights which you have asserted here on the stand? A. Yes.

Q. And that's true also of Mr. Grulich? A. Yes.

Q. Grulich? A. Yes.

Q. Mr. Wagner? A. That's right.

Q. Mr. Kennedy? A. No.

Q. Not Mr. Kennedy? A. No.

Q. Not Mr. Kennedy, the name escapes me for the moment; who was the other one? A. Just the three, there are only three.



1540

*Martin A. Wersing—For N.L.R.B.—Cross*

Q. Only you three brought the suit? A. Yes.

Q. And that suit was brought in your behalf in the Municipal Court and later carried to the Appellate Term and to the Appellate Division, is that right? A. I believe it is, I don't know for sure.

Q. And the judgment was in each court against your claim? A. That's right.

Q. And you went carefully into the facts regarding

S. M. 508

1541

your termination of service with Mr. Bellows, didn't you?

A. No, I did not.

Q. Who did? A. Mr. Grulich handled most of that end of it.

Q. That's what I wanted to get at, it was Mr. Grulich who really was the motivating spirit in handling the litigations, he was the first of the three plaintiffs I believe? A. I believe he was named at first, yes, however it was not so much as you have described it as it was that it was not necessary for three of us to be constantly on the job with the attorneys, it was necessary for only one and Mr. Grulich did that.

1542

Q. In any event, you asserted this claim of rights in the court and were defeated in the final court, to which the case could be carried? A. Did you say to which it could be carried?

Q. Yes. A. Well, I don't know, I am not acquainted with court procedure to know whether it can be carried any further or not.

Q. I am not sure that the record is clear or that I am clear in my own mind, as to just what relation the work which you were doing in '35, after May, down to the time of your discharge, had to do with this inventory work under the Public Service Commission plan for continuing property records, could you describe that a little more

S. M. 509

in detail? A. I could not. It was not necessary for me to be familiar with the uniform system of accounts that the Public Service Commission had drawn up, and it was not, none of my work had any connection with the work done by the inventory, my work was confined solely to the stores account division, that is so far as my own supervisor was concerned, he intimated nothing that would lead me to believe that there was any direct connection with the inventory department.

Q. That was aside from such use as you made of the inventory department records, or as they made of your records, you think there was no connection? A. That's right.

Q. Do you know a Mr. F. Hibetts? A. Tibbets?

Q. Hibetts, who was in the employ of the company?

A. How do you spell it?

Q. H-i-b-e-t-t-s? A. No, I don't recall the name.

Trial Examiner Gates: We will take a recess for five minutes.

(Whereupon a short recess was taken.)

#### AFTER RECESS

Trial Examiner Gates: Proceed.

Q. (By Mr. Ransom) Well, then, your stores account bureau, or division, in the auditor's office, kept, as you may say, stock and records about property that was

S. M. 510

moved in and moved out of active service? A. Yes, primarily however of stock that was out of service and in storage.

1546

*Martin A. Wersing—For N.L.R.B.—Redirect*

Q. That is the property that had been on the lines, like transformers, meters? A. Not meters.

Q. Not meters, but transformers? A. Transformers.

Q. What use? A. Transformers, appliances, net work switches, P. K. switches, et cetera.

Q. That had been installed in the lines and had been in service and then for one reason or another were taken off the line and out of active use? A. That, and new material that was purchased.

1547

Q. That was a kind of plus and minus accounting between property which, equipment of that sort which came in and went out on the lines and then that which came back or from the lines, and then went out of service? A. That's right.

Q. And it related only to such property of the New York and Queens Company? A. That's right.

Q. Now, how old were you in November of 1935? A. 27.

S. M. 511

Q. And were you at that time unmarried? A. That's right.

1548

Mr. Ransom: That's all.

*Redirect Examination:*

Q. (By Mr. Moscovitz) You testified that you attributed the reinstatement of Mr. White to the I.B.E.W., is that right? A. No, I attribute his reinstatement to the aggressive and consistent activities carried on by the local union through its membership, particularly those in the Hudson Avenue generating station.

Q. In which you represented them in your regular capacity? A. That is right.

Q. You don't suggest, do you, that the company was pleased by his reinstatement or your connection with it, do you? A. No, I don't.

Q. Have you done special jobs from time to time for the company?

Judge Ransom: For whom?

Mr. Moscovitz: For the company, outside of the company.

The Witness: Yes, well I was on the night force doing cut in and cut out work. I did do certain special work in connection with my job as the key man for that particular class of work.

1550

Q. (By Mr. Moscovitz) And what would the special jobs be? A. Oh, instructing all of the cut in and cut out men on how to work out the accounts, when new rates

S. M. 512

were adopted, one particular job was, there were many tough cases that came through and this work, either they were old, or something was wrong with the reading, or the premises, it was impossible to get in and the account grew old and there was an overlap there, these special cases were not done by the average person, they were left for me.

1551

Q. Also, there was a mix up when the new rates came through once that three-fourths of the men figure them out the wrong way and the other fourth figured them out the right way with the head of the section ruling against those of us who had figured them rightly and I was given the job of going back over the work and changing the whole business and then the next job of going back over them and changing the whole thing again.

Things like that, any special job in connection with that work.

1552

*Martin A. Wersing—For N.L.R.B.—Redirect*

Q. Were they jobs that other persons could have handled also? A. Some of the men could have handled them, I think so, yes.

Q. Were you singled out to do the work, is that it? A. Yes.

Q. Was that through 1934 and '35? A. No, that was earlier in the year than that, that was in 1932 while I was on the day, on day work, in 1935 I was the only one doing that type of work so there was nothing special in it.

1553

S. M. 513

Q. And you got to the point of your last period of employment, when you got to that point you were the only person handling that kind of a job, is that right? A. Yes.

Q. Would your leaving the job or being discharged indicate the breaking in of another person to fill your job? A. It would.

Judge Ransom: I object to that, the witness can't testify to that, I submit.

Trial Examiner Gates: The question has already been answered.

1554

Judge Ransom: Move to strike it out.

Trial Examiner Gates: He may answer it and the answer so far given may stand, if he actually knows.

Q. (By Mr. Moscovitz) Well, I understand your testimony to be that there were no other persons doing your work, is that right? A. That is correct. I know from personal knowledge that there was nobody else in my section in the stores accounting division who was familiar with this work and that to a large extent included the head of the division. The man who broke me in on it was one of two people that I know of who was familiar with the job, and the second person was a supervisory

official, so that when I left, the man who had broken me

S. M. 514

in on the job had already been laid off. He wasn't there to do it, so outside of the supervisory official; there was no one there—these two supervisory officials—there was no one there who knew the job, certainly no clerks.

Q. Who knew the job? A. There was my immediate supervisor, Mr. Locke, and then a man in the inventory department by the name of J. J. Daly, I think his initials were "J. J.", who was familiar with it, having done part of it when it was in fixed capital.

1556

Q. Was your job a technical job in any respect? A. Not particularly. It required a knowledge and adaptability to accounting procedure, common sense, and a little application.

Q. Was it the sort of job that any person could fill very easily without a certain amount of experience and training?

Judge Ransom: Objected to as vague and worthless and not probative testimony.

Mr. Moscovitz: I will withdraw that.

Q. (By Mr. Moscovitz) Was it necessary to go through a breaking in process in order to handle the work that you were handling?

1557

Judge Ransom: Objected to on the same grounds.

Trial Examiner Gates: It may stand.

Judge Ransom: Exception.

S. M. 515

Q. (By Mr. Moscovitz) You went through that process? A. Yes.



1558

*Martin A. Wersing—For N.L.R.B.—Redirect*

Q. Over what period of time were you being broken in to handle that job? A. Oh, I suppose about a week directly, and then for a period of several weeks I had to call upon the man who broke me in on it for advice and so forth, upon Mr. Daly to give me advice, my supervisor. That part was necessitated by reason of being transferred from one department to another and of the procedure and set up used being altered in some way.

1559

Q. After that period of time had elapsed, was it ever necessary for you to call on your supervisor for assistance in the handling of your job? A. Yes, when unusual situations came up, such as the purchase of used transformers from the New York Edison Company, what price to enter them in at; the sale of old transformers from New York and Queens, what to do with the salvage. Whenever any unusual transactions came through that would not be the everyday type, it was necessary to check up on it, to see that you were doing it right.

1560

Q. After that period of time elapsed, were there ever any other persons who came to assist you or work with you or who were substituted for you? A. No. Mr. Locke, the head of the division was the only one who worked with me, and then only, outside of these special occasions,

S. M. 516

only when they decided to close the books and take an inventory of them.

Q. Were you ever, at any period of time, while you were doing that work, or away from the office for any other reasons, or were you ever ill? A. Not that I recall, I may have been out a day or two, but I don't recall when I was.

Q. You have no recollection of whether or not there was anyone else called in to do your job? A. Well, while I was on my vacation, I think Mr. Grulich took care of

*Martin A. Wersing—For N.L.R.B.—Redirect*

1561

the invoices that came through and did the absolute necessary work and let the rest of it accumulate until I got back. He did pricing and that was about all.

Q. No other person that you know? A. Not that I know of.

Q. That's all.

*Examination by Trial Examiner:*

Q. (By Trial Examiner Gates) You have referred several times to the Hudson Avenue plant. Is that operated by the Brooklyn Edison or by— A. Brooklyn Edison.

1562

Q. You worked only for the New York and Queens, did you not? A. That is correct.

Q. Which has since been consolidated, brought in with the consolidation?

S. M. 517

Judge Ransom: No.

A. No. The set up there—

Q. (By Trial Examiner Gates) That remained separate? A. Yes.

Q. Did the Queens Local take in employees of the Brooklyn Edison as well as— A. No, Brooklyn had its own local. The period that I have reference to in connection with the Hudson Avenue station is that period since the reorganization of the local and its entrance into the A.F.ofL. At that time we did away with separate locals, reorganized everyone into one local, which had jurisdiction over the entire system, regardless of whether the employees were New York and Queens, New York Edison, Brooklyn Edison or what.

1563

Q. When you were connected with Local B-729— A. B-752.

Q. 752? A. Yes.

1564

*Martin A. Wersing—For N.L.R.B.—Redirect*

Q. Did the I.B.E.W. attempt to negotiate any contract with any of the respondent companies? A. They did not.

Q. Did you know whether any international officers attempted to negotiate contracts with the locals? A. For the locals?

Q. For the locals? A. They did not.

S. M. 518

1565

Q. You stated that you signed some articles in a paper called the "Live Wire", in October or November issues, but you did not state the year, as I recall it. Can you state the year? A. Yes.

Q. What is it? A. 1935.

Q. I understood at the beginning of your testimony that you said that you were discharged on November 25. A. November 29.

Q. The 29th? A. Yes.

Q. That's all.

(Witness excused.)

Mr. Moscovitz: I will call Mr. Grulich.

1566

Mr. Moscovitz: Mr. Examiner, Judge Ransom and myself are interested in finding out whether or not you would care for some further discussion regarding the amendment at this point before we proceed with this witness.

Trial Examiner Gates: I would like to have you state, Mr. Moscovitz, whether or not Board's exhibit No. 1 discloses that the I.B.E.W. was served with a copy of the complaint and the amended notice of hearing. My impression is that it does.

S. M. 519

Mr. Moscovitz: Mr. Examiner, you will notice in Board Exhibit No. 1 a certification of Mrs. Her-

rick is that the complaint in this proceeding was served upon the Consolidated Edison Company as well as the other companies as the exhibit will show, the United Electrical & Radio Workers and the International Brotherhood of Electrical Workers. If you refer to the photostatic copy which you find in the exhibit you will see that the Consolidated Edison Company of New York acknowledges receipt of the complaint at 4 Irving Place, and you will also find that the United Electrical & Radio Workers of America acknowledge receipt of May 12, 1937, signed by C. Levine, and then you will find above that on the same date the acknowledgment of service by the I.B.E.W. signed by D. Kaplan.

1568

Now, before the I.B.E.W., there is the figure "3," and before the figure 3 there is some lettering which I cannot figure out. It might be "local," it might be something else. I am not sure, but in any event there is an indication of acknowledgment by the I.B.E.W. signed by Mr. Kaplan, and then further on in the exhibit you will find that the amended notice of hearing which gave the adjourned date for the proceeding was served upon the International Brotherhood of Electrical Workers, as well as the other persons and parties in the complaint.

1569

Mr. Judge Ransom: I don't know what the address is of the International Brotherhood of Elec-

S. M. 520

trical Workers or any of the authorized agents of that organization other than such addresses as have been given in this proceeding with respect to certain of the local unions which have been recog-

1570

*Proceedings*

nized by the respondent companies as collective bargaining agencies for such of their employees as belong to those unions.

I notice, however, that this purported service on the International Brotherhood of Electrical Workers is at 103 East 25th St., which is not an address which I personally am able to recognize as having any relationship to this organization.

1571

So far as any of the local unions are involved in this proceeding are concerned. As far as I know, that may or may not be, that address of some local of the I.B.E.W., it may be, but not of any local which has been covered by testimony here. However, I do not personally regard the question of service of the notice of hearings of any moment. My point is that you can not maintain a valid proceeding against an employer and a collective bargaining agency in behalf of various of its employees under Section 8, sub-division 2 of the Act and hear and determine a section 8-2 charge and complaint without citing the labor organization complained of as a party to the proceeding.

1572

I believe that the labor organization has been cited in here as a party to 9-2 proceedings in other

S. M. 521

cases, that is, I believe it has been cited in other cases and I think it is necessary here to a valid proceeding. I do not think that this purported service on the I.B.E.W. at 130, or, something, in the East 25th St., even if it were a valid service, which I do not know, and therefore do not concede—

Trial Examiner Gates: Do you recall the names of any of these cases before the Board?

Judge Ransom: I do not at the moment, I probably could get them for you if necessary. Mr. Moscovitz probably knows them, but I do not think that this service, even if it were a good service of notice, would make this a valid proceeding on a Section 8 subdivision 2 charge and complaint, without the naming of the labor organization attacked and complained of as a party defendant.

Mr. Moscovitz: Well, all I say in this case is, so that there will be no confusion first, that there has been, as evidently appears in the face of Board Exhibit No. 1, service. In the second place, there is no question here of placing the responsibility for the proceeding on the shoulders of the I.B.E.W. That should be made very clear, because the Board takes the position that the International Brotherhood of Electrical Workers is a bona fide labor organization within the meaning of our statute, and we are not here in this proceeding attacking the legality of the I.B.E.W. All we do here—

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S. M. 522

Trial Examiner Gates: Do you know of any cases, Mr. Moscovitz, in which the Board has held that? Under which it may be decided under Section 8-2, that that is a necessary or a proper party?

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Mr. Moscovitz: That a union is a necessary or proper party?

Trial Examiner Gates: Yes.

Mr. Moscovitz: I do not know of any such cases.

Trial Examiner Gates: Yes.

Mr. Moscovitz: I know of no such cases, all I want to point out in this proceeding, Mr. Examiner, is this, that we ask for no more than an



1576

*J. Grulich—For N.L.R.B.—Direct*

order which directs the Consolidated Edison System to stop doing the things which the complaint alleges, that the Consolidated Edison System is doing in violation of 8-2, so that there should not be any question about the I.B.E.W., if we get an order directing the system to stop contributing to the I.B.E.W., or to stop controlling the I.B.E.W.

1577

Trial Examiner Gates: I don't think it is necessary to go into it any further. The motion to amend the complaint, to amend paragraph 23 of the complaint by changing the figure 16 to 21, in the second line to 17 and 22, is granted; a similar motion as to paragraph 24, to change the figures 16 and 21 to 17 and 22, is granted.

S. M. 523

Judge Ransom: I respectfully except, and in behalf of the respondents reserving our objections to jurisdiction, we ask that this proceeding be now terminated because of a fatal defect of the parties.

Trial Examiner Gates: The motion is denied.

Judge Ransom: Exception.

1578

(Discussion off the record.)

Trial Examiner Gates: Proceed.

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J. GRULICH, called as a witness for the National Labor Relations Board, being first duly sworn, testified as follows:

*Direct Examination:*

Q. (By Mr. Moscovitz) What is your name, Mr. Grulich? A. Julius A. Grulich.

Q. Your address? A. 143-17—38th Avenue, Flushing, Long Island.

Q. By whom are you employed at the present time?  
A. By the Federal Writers Project.

Q. New York City? A. New York City, 231 East 42nd St.

Q. In what capacity? A. I am a senior newspaper man.

Q. How long have you been employed by the Federal Writers Project? A. Since the beginning of March, 1936.

S. M. 524

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Q. Have you been employed continuously since March, 1936? A. Yes.

Q. What has your income been as a result of that work? A. I started on the project as a junior newspaper man at \$21.57. That scale continued until July, I believe, at which point I was reclassified to a senior newspaper man at \$23.88.

Q. When were you reclassified at that rate? A. July.

Q. July, 1936? A. Yes, sir.

Q. And have you continued at that rate since? A. Yes.

1581

Q. By whom were you employed before your association with the Federal Writers Project? A. My previous employment was with the New York & Queens Electric Light & Power Company.

Q. How did you work for the New York & Queens? How long did you work there? A. A little better than six years.

Q. Starting when? A. October 3, 1929.

Q. What was the first job you held with the company?

A. I was employed as a clerk, an accounting clerk, a position that I held for the duration of my service there.

1582

*J. Grulich—For N.L.R.B.—Direct*

S. M. 525

Q. What was the amount of money you were making when you were first employed? A. I was employed at \$25. a week.

Q. Is that what you made at the time your employment was terminated? A. No, sir.

Q. Did you receive increases during the period of time you were with the company? A. Yes.

Q. Always employed by the same company? A. Yes.

1583

Q. Did your responsibility change with the years of employment with the company? A. Yes.

Q. How long did you work before you got your first change of rate? A. Approximately six or seven months.

Q. What was your increase? A. \$2.00.

Q. Did that carry with it an increase in responsibility of work? A. No, I do not believe it did, except that I perhaps became more efficient in dispensing my duties by that time.

Q. How long did you work after that until you got another increase? A. Well, after that, the company put

S. M. 526

1584

through a reduction in salaries, a general wage reduction.

Q. When was that? A. It seems to me in 1932 I suffered an 8 1/3 wage cut at that time, bringing my wages down to \$24.86, or something like that.

Q. You are sure it was 1932? A. I am not certain what year, 1932 or '33.

Judge Ransom: 1933, in connection with the reduction in hours.

Q. (By Mr. Moscovitz) How long did you work under that reduced scale? A. Until May, 1934, at which time one-half of that wage cut was restored.

*J. Grulich—For N.L.R.B.—Direct*

1585

Q. That was a voluntary restoration, wasn't it, by the company? A. I would say that the company was prompted to restore that because of the agitation on the part of the union to restore the wage cut.

Q. Had there been agitation—

Judge Ransom: I move to strike out the answer as wholly incompetent. This clerk cannot testify as to what prompted the company to do what it announced at the time and signed the President's re-employment Agreement?

Trial Examiner Gates: I will ask the witness

1586

S. M. 527

to answer the question. The reporter may read the question to the witness.

Mr. Moscovitz: The question is whether or not the restoration was voluntary on the part of the company.

A. It was voluntary, as far as "voluntary" goes.

Q. (By Mr. Moscovitz) Had there been any agitation for restoration of the reduction in pay by any labor organization before that? A. Reduction in pay?

1587

Q. Restoration in pay? A. Yes.

Q. When did that agitation start, as far as you know?

A. The union objected to—let's see—

Judge Ransom: I move to strike out the answer as wholly unresponsive. I ask that the witness be asked to answer questions rather than to argue his case.

Mr. Moscovitz: I don't think the witness has finished his answer.

Judge Ransom: He hasn't started it.

1588

*J. Grulich—For N.L.R.B.—Direct*

Mr. Moscovitz: Then you cannot strike his answer.

Judge Ransom: He has started to answer something else, as he does on every question.

Q. (By Mr. Moscovitz) When did the agitation start, if you know? A. The agitation for the restoration began early in 1934.

S. M. 528

1589

Q. And by whom was this agitation commenced? A. By whom was the agitation commenced?

Q. Yes. Was it by a labor organization? A. By a labor organization.

Q. By what labor organization? A. The Brotherhood of Utility Employees.

Q. Were you a member of the Brotherhood of Utility Employees at that time? A. Yes, I was.

Q. In what capacity? A. I was a rank and file member.

Q. You mean a regular member of it? A. Yes.

1590 Q. How long had you been a regular member of the Utility Employees Workers at that time? A. I joined the organization in January, 1934.

Q. Were you a charter member of the organization? A. No, sir.

Q. Were you one of the organizers of the local within your company? A. Yes.

Q. Did you work with Mr. Wersing and others in an attempt to organize the local of that organization in your company? A. Yes.

Q. Had you held an office, after this agitation or restoration of wage cuts? A. No, not prior.

S. M. 529

Q. All right. Now, when you say there was agitation of the date which you have already given, will you tell us what the form of the agitation was?

Judge Ransom: Objected as immaterial, not within any issue tendered by the complaint as amended.

Trial Examiner Gates: He may answer.

A. The agitation was in the form of newspaper publicity on the ability of the company to restore the wage cut, and it was also in the form of a distribution of leaflets that were prepared by the Brotherhood of Utility Employees.

1592

Q. And, and who was in, who was in charge of the preparation of those leaflets? A. I myself have prepared many of them.

Q. And did you yourself sign many of them? A. I never signed any of the leaflets.

Q. What was the name of the publication that your organization issued? A. We issued the "Live Wire".

Q. How often would it be issued? A. Once a month.

Q. When did it commence, the issuance of this publication? A. I believe it was in October.

1593

Q. 1934? A. 1935, the publication.

S. M. 530

Q. Well, the publication known as the "Live Wire", is that right? A. Yes.

Q. Now, these leaflets to which you refer, these publications to which you refer, which were issued in 1934, did they also appear under the name of the "Live Wire"?

A. No, they were individual leaflets issued and sponsored and issued by the organization.

Q. It was not then in the form of a magazine or a newspaper, just regular circulars, is that it? A. The



1594

*J. Grulich—For N.L.R.B.—Direct*

organization, the Brotherhood of Utility Employees, the National organization, did have a publication that it issued and which was distributed, but I myself was not, did not contribute to that.

Q. The National organization publication, was it being issued at that time also? A. Yes, sir.

Q. What was the name of it? A. Tower Man.

Q. And was that issued monthly? A. Yes.

Q. Were you at all responsible for the distribution of that monthly publication? A. No.

1595

S. M. 531

Q. Was it distributed only to members of your organization? A. Yes.

Q. And to regular subscribers? A. Yes.

Q. Was it distributed to persons as they left the plant as a part of your organizational program? A. Not that particular pamphlet or bulletin.

Q. All right, so then these other leaflets to which you refer, which contained statements in support of your effort to secure restoration were issued locally by your own organization, is that it? A. That's correct.

1596

Q. And that was in 1934, the date to which you have already referred, is that right? A. That's right.

Q. And did your name appear on those leaflets? A. No, it did not.

Q. Did the names of any of your officers appear on those leaflets? A. Whether it was prior—

Q. At that time? A. Well, I really don't recall.

Q. I see, did the name of your labor organization appear on that leaflet or on those leaflets? A. Yes, it did.

S. M. 532

Q. Were there references from time to time in those leaflets to Mr. Wersing or yourself or other members of your organization? A. Yes, there were.

*J. Grulich—For N.L.R.B.—Direct*

1597

Q. Were they after that period in March, 1934, or during that period? A. In the majority, as far as I recall, they were all after.

Q. Now, what was the substance of the statements in the leaflets in March, 1934, which requested a restoration of the pay cut?

Judge Ransom: I object to that as incompetent, not a proper method of proof.

Trial Examiner Gates: Read the question, please, Mr. Reporter.

(Reporter repeated the last question.)

1598

Trial Examiner Gates: You may answer.

The Witness: The leaflet, the general tenor of the leaflet, was to point out the capability of the company to restore the wage cut and as a means of forcing, as a means of compelling, the company to restore this wage cut and pointed out that a labor organization was necessary, and of course the restoration of a cut was merely a grievance. We were building a labor organization and we tried to point out by building this labor organization we could adjust these grievances.

1599

S. M. 533

The larger the organization became, the more speedy it would be, the more speedy would the grievances be adjusted.

Q. How soon after the appearance of these leaflets was there a restoration? A. The restoration came in May, 1934.

Q. And at that time, at the time of the restoration, you still were not an officer of the local, were you? A. In May, 1934?

Q. Yes. A. I don't recall whether I was elected to the executive board before that time or not. I know I

1600

*J. Gulich—For N.L.R.B.—Direct*

was very active in organizational work, I don't recall just what capacity at the moment.

Q. You don't recall whether or not it was in an official capacity or as a member? A. Yes.

Q. After you received this restoration of the 50 per cent of your cut, you continued in your regular employment, did you not? A. That is right.

Q. And were there any other increases after that? A. Yes, the company instituted a system of reclassification.

1601

Q. When was that system instituted? A. I would say it was just a few months after the restoration in May, 1934, and somehow or other I still, to this day, could not

S. M. 534

ascertain how they figured it, but at that time I was boosted to \$27. a week. It was sort of a mysterious method of calculating at that time, that they instituted.

Q. Well, was that on the half pay restoration? A. No, the 50 per cent pay restoration went into effect in May, 1934.

Q. That brought your salary up to what? A. \$25.86, in the neighborhood of \$26.

1602

Q. And how soon after that did you receive the other increase as a result of this reclassification which you say you did not understand? A. I really don't recall the exact month, but it was perhaps three or four months after, I really don't know.

Q. Was it in 1934 or 1935? A. I believe it was 1934.

Q. And did you continue then at this rate of pay for any length of time, or did you receive another increase shortly thereafter? A. I did receive another increase thereafter.

Q. Do you recall when it was? A. No, I don't recall, to be frank about it.

Q. If you have any notes which will refresh your recollection? A. No, I don't have any notes on that at all, I know I was boosted some time afterwards to \$28.75.

S. M. 535

Q. And was that the same that you received at the time you were discharged? A. That's right.

Q. You mentioned before that there was some change in responsibility of your work during the period of your employment; did you assume additional duties? A. Yes, I assumed additional duties as the scope of my work broadened, as I become more experienced, of course I assumed I was given more work to do.

1604

Q. And will you describe some of these additional duties that you assumed, or that you were asked to assume? A. Yes, I handled some correspondence that I took upon myself, or I was given the work.

Q. Now, when you say that you answered some correspondence, when, in relation to the time when you first went to work for the company, did you start answering correspondence? A. Well, I don't know, it's pretty difficult to pin it down right to the exact time, or date, I could not say definitely, it was two or three years perhaps after I was there.

1605

Q. Well, did it become after two or three years after you were there, a regular part of your work? A. Yes.

Q. And what was the nature of this correspondence that you were handling? A. Well, it was in connection, it was in connection with return of empty cable reels and

S. M. 536

perhaps an adjustment of the proper amount of credit received, or there might be a question arise as to the value of the reel returned, or of the reel that was dam-

1606

*J. Grulich—For N.L.R.B.—Direct*

aged, there might have been a little correspondence necessary to adjust the particular value of the reel.

Q. Were you doing that work also at the time you were discharged? A. Yes.

Q. Now, were you doing it on the basis of certain references to you for answer by a superior, would these letters be referred to you for answer by some superior? A. Yes.

Q. Who was the superior? A. Harold J. Bocke.

1607

Q. Is that the same Mr. Locke that Mr. Wersing testified about? A. Yes.

Q. You heard his testimony? A. Yes.

Q. And were there other persons in your department who also had letters referred to them similar to yours for answer, or were you the exclusive person for reference to matters of that sort? A. In connection, in that account, in the adjustment of the account, in connection

S. M. 537.

with reels, yes, I handled virtually all the correspondence.

1608

Q. And did your handling of that correspondence necessitate some special study on your part, or special training? A. Well, you would have to be articulate, I mean, to write a letter, I mean to dictate a letter.

Q. Well, did it also necessitate some special training so that you might become well advised of the subject matter that you were writing about? A. Yes.

Judge Ransom: I object to that as incompetent and not in proper form, not appropriate, it just calls for a conclusion.

Trial Examiner Gates: He may answer, if he states the particulars.

The Witness: Yes, it requires some training, any one just could not come in there and start writing a letter, you would have to first of all

know the English language properly and then would have to know something about the accounts and the circumstances and the movement of the reels and so on and so forth, yes, I would say some training was required.

Q. Did that become a regular part of your job? A.

Yes.

Q. In addition to that, what were these other responsibilities that you assumed with the passage of time? A.

S. M. 538

1610

I worked in the stores account division and we kept there perpetual records of the income of stock as it was charged out to the store rooms. The cost price was fixed to the requisition, the unit cost price and it was my duty to calculate and establish all unit cost prices of these items in stock. In other words, I received all the invoices covering all the materials coming into stock, and I calculated for the cost of new material, the quantity, that was left in stock, the price that the previous material was received, and I arrived at an average price.

Q. And to whom would you submit your result? A. My work was checked by a supervisor.

Q. Who is that? A. Walter Brown.

1611

Q. And that is a different supervisor, is that right?

A. That's a different supervisor, well, he is clerk in charge.

Q. Above Mr. Locke? A. No.

Q. Mr. Locke is above him. A. Yes, sir.

Q. I see, and then it would go from this gentleman to Mr. Locke, is that right? A. No, after that the invoices, after the proper notation had been made of the

S. M. 539

new price that had been established, after this had been



1612

*J. Grulich—For N.L.R.B.—Direct*

noted on the stock record, the invoices of course were properly classified as to the account to which they would be charged, incidentally, I did that, too, and then they were sent over to the accounts payable department.

Q. I see, and did that become a regular part of your work, too? A. Yes, it did.

Q. You were doing that as well as this letter writing at the time you were discharged? A. Yes, that's right.

Q. And how many persons were there in your department? A. Approximately—you mean, the division?

1613

Q. In your division? A. Yes, about twenty-nine.

Q. And did you work in the same division that Mr. Wersing worked in? A. Yes.

Q. How many persons—what was your division called again? A. Stores Accounts Division.

Q. How many persons were there in your department? A. In the entire department—oh, 95 perhaps.

Q. What was the department called? A. The auditors' department.

S. M. 540

1614

Q. And there were other divisions in addition to your own in that department, is that right? A. Correct.

Q. What were some of the other divisions? A. Work Order Division, Fixed Capital Accounts Division. Those were the chief ones.

Q. Did you work interchangeably between divisions, or always in your own division? A. No, I worked in the same division from the time I started.

Q. I see. And when you say you worked in the same division from the time you started, you mean you were never transferred to other departments? A. No.

S. M. 541

Q. All right, what other duties did you assume or were you asked to assume during the period of time that

you were employed, at the time you were last employed?

A. Well, I was given responsibility of, in a way, it was supervising the stock records which the people in the department kept. I was more or less instructed to constantly look over the records to see whether the posting was satisfactory and also to check calculations and oft times Mr. Locke delegated me to carry out certain instructions of his, and when Mr. Brown, the clerk in charge, went on his vacation, I assumed all of his duties in addition to those that were mine.

Q. Yes. A. And—

1616

Q. This work, in the nature of supervisory work that you testified about, were you instructed to do that work by Mr. Locke? A. Yes.

Q. How many people were there that you were to check on? A. Oh, about, I would say, twelve girls, twelve or fifteen.

Q. When were you asked to carry on that work, do you recall? A. I don't recall.

Q. Do you recall when, approximately, in relation to the date when you were last employed by the company?

A. I would say around 1933, some time.

Q. And does that also go for the other work that you

1617

S. M. 542

have been testifying about? A. As to when I assumed that work?

Q. Yes, as to when you assumed it? A. I think it was a little earlier in respect to some of the duties.

Q. But did you carry on with all those duties through your entire period of your employment? A. Yes, virtually the entire period of employment with the exception of the first year or two.

Q. What other duties were assumed by you or were you asked to assume in addition to those which you have

1618

*J. Grulich—For N.L.R.B.—Direct,*

already described? A. That is all I can recall that was compulsory. I was asked to become a bureau correspondent for the house organ.

Q. But that was extra curricular activity? A. That wasn't compulsory. I could have declined.

Q. Is that the company publication? A. Yes, the house organ.

Q. Who gets that out? A. The company.

Q. Who asked you to do that? A. My chief, Mr. Locke.

1619 Q. When was that? A. Some time in 1933, very likely. I don't recall exactly.

Q. What is your best recollection? A. 1933.

S. M. 543

Q. The first part, last part? A. Last part.

Q. Yes. And what did you do, did you turn it down?

A. No, I took it on myself to do.

Q. You did? A. Yes.

Q. How long did you carry on with that work? A. Oh, perhaps a year and a half.

1620 Q. Until the time of your discharge? A. Well, I had given it up perhaps six months before.

Q. Someone else carry it on after you gave it up? A. Yes.

Q. Who was that, do you recall? A. I believe it was Mr. Wagner who did it for awhile.

Q. Is that the Mr. Wagner who is also named in this complaint? A. Yes.

Q. Now were there any other extra curricular activities which you assumed at the request of the company?

A. I cannot recall any.

Q. All right. In addition to your regular duties and your regular line of work, were you asked at any time

to perform certain special missions for the company, or were you given special assignments? A. Special assignments pertaining to the work in the bureau perhaps, yes.

S. M. 544

Q. And what would those special assignments be? A. Well, they weren't of much consequence.

Q. They weren't? What would you then call a special assignment? A. Well, if another department wanted a certain group of filing—figures pertaining perhaps to materials and their costs, then Mr. Locke would call on me to draw up a schedule of the materials that were involved and I would do that.

1622

Q. Would he always call on you for that work? A. Invariably in connection with the stock.

Q. Yes. Now, were there any other persons in your division who did the same work that you were doing, the same work that you have already testified about? A. Supervisory, Mr. Walter Brown.

Q. Any one else? A. No. He is the only one.

Q. You testified that you were the only person who handled these letters and correspondence, is that right?

A. That's right.

1623

Q. Now, does the same hold true for the other duties which you assumed about which you have already testified? A. I don't quite get the meaning of your question.

Q. Well, was there any other person, or were there any other persons in your division who did the same kind

S. M. 545

of work that you were doing? A. No, my work was specialized and I was the only person in the bureau doing it.

Q. Was there any period of time during the years which you worked for the company that you were away

1624

*J. Grulich—For N.L.R.B.—Direct*

on vacation or because of sickness? A. I have never taken any extended leave of absence because of illness and several summers I believe I took an extra week's vacation.

Q. Who would do your work while you were on vacation? A. Mr. Brown.

Q. That is, your supervisor? A. Yes.

Q. But there was no other person in your division who would do it, is that right? A. No.

1625

Q. And do you recall whether or not during the years you were employed by the company you were called in by your supervisor? And disciplined for inefficiency in the performance of your work? A. No, I have never been disciplined for that.

Q. Have you ever been commended by Mr. Locke or other supervisors for the work you were doing? A. Yes, often.

Q. Do you recall when it was that was the last time

S. M. 546

1626

you received such commendation in relation to the date of your discharge? A. Yes. At the time that the re-classification went through, I recall that I thought I deserved re-classification at that time. I took the matter up with my supervisor Mr. Locke and he concurred with my thought that I had been in the department and I had been a good, efficient worker, and he thought I deserved more money or a higher classification, which would bring me more money.

Q. Any other special—I am sorry, did I interrupt you? A. Then, I understand, from that point on, he did try to get a re-classification for me.

*J. Grulich—For N.L.R.B.—Direct*

1627

Q. Is that what he told you? A. That is what I was informed.

Q. Yes. And that was not very long before the last day that you were employed by the company, is that right? A. It is in the summer of 1935.

Q. Yes, and—

Judge Ransom: If Your Honor please, how long are you planning to sit?

Mr. Moscovitz: I would like to say it has been a long day and very hot, and I do not hesitate to join in the request of Judge Ransom for adjournment.

1628

Trial Examiner Gates: Do you want to begin at 9:30 in the morning?

Judge Ransom: I submit that I must have a

S. M. 547

little time for myself, Mr. Examiner. You do not save any time, if I might say, by having a half past nine to after five schedule, because you simply slow everybody up who is working at the counsel's table, so that the proceedings do not move.

1629

Trial Examiner Gates: Well, we will recess until ten o'clock tomorrow morning.

(Thereupon at 5:05 P. M., a recess was taken until 10:00 A. M., June 15th, 1937.)

ADJOURNMENT



1630 S. M. 548

## Minutes of Hearing, Held June 15, 1937

BEFORE THE  
NATIONAL LABOR RELATIONS BOARD  
SECOND REGION

## IN THE MATTER

of

1631 CONSOLIDATED EDISON COMPANY OF NEW  
YORK, INC., and its affiliated companies,  
BROOKLYN EDISON COMPANY, INC.,  
NEW YORK & QUEENS ELECTRIC LIGHT  
& POWER COMPANY,  
WESTCHESTER LIGHTING COMPANY,  
THE YONKERS ELECTRIC LIGHT AND  
POWER COMPANY,  
NEW YORK STEAM CORPORATION,  
CONSOLIDATED TELEGRAPH & ELE-  
CTRICAL SUBWAY COMPANY,

*Respondents,*

and

1632 UNITED ELECTRICAL AND RADIO WORKERS  
OF AMERICA, Affiliated with the COMMIT-  
TEE FOR INDUSTRIAL ORGANIZATION.

Case No.  
II-C 224

14 Vesey Street,  
New York City, N. Y.,  
June 15, 1937.

The above-entitled matter came on for hearing pur-  
suant to adjournment taken June 14, 1937, at 10:00  
o'clock A. M.

Before:

ROBERT M. GATES, Trial Examiner.

*J. A. Grulich—For N.L.R.B.—Direct*

1633

**Appearances:**

DAVID A. MOSCOVITZ, Esq., Attorney for the National

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Labor Relations Board.

WILL MASLOW, Esq., Attorney for the National Labor Relations Board.

LOUIS B. BOUDIN and SIDNEY ELLIOTT COHN, 8 West 40th Street, New York, N. Y., appearing for United Electrical and Radio Workers, Local 1212.

1634

MESSRS. WHITMAN, RANSOM, COULSON & GOETZ, 40 Wall St., New York City (By William L. Ransom, Jacob H. Goetz and Pincus M. Berkson, of counsel), appearing specially for the respondent companies, reserving all objections to jurisdiction.

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**PROCEEDINGS**

Trial Examiner Gates: The hearing will come to order, please.

1635

J. A. GRULICH, resumed the stand.

*Direct Examination (Continued):*

Q. (By Mr. Moscovitz) You were testifying at the close of yesterday's proceeding, Mr. Grulich, about your employment activity; do you recall whether or not in the years that you were employed by the company you at any time were laid off or discharged? A. You mean before the final dismissal?

Q. That is right. A. You mean a suspension, perhaps?

1636

*J. A. Grulich—For N.L.R.B.—Direct*

Q. Either a lay-off or a suspension or discharge? A. No, I have never suffered such a ruling.

Q. So that in November, 1935, when you were discharged, that was the first time that there was a break in the continuity of your employment, is that right? A. No, I take that back, I believe I was late once, they had a ruling in the company at one time that if you were late twice in one week you get a day off, I believe I was late twice in one week one time there and I got a day off.

1637

Q. How long ago was that? A. Oh, I have no idea, perhaps '33 or '34.

Q. Was that the only time? A. That was the only

S. M. 551

time I recall.

Q. Had you ever been called in and criticized by your supervisor regarding your work? A. No, I have never been criticized for my work. In fact, I have always been commended on the efficient dispatch of it, and I have often been called into conference with the bureau chief on different problems confronting the bureau.

1638

Q. Is that Mr. Locke? A. Yes.

Q. And were you called in from time to time right from November, 1935? A. Yes.

Q. Was there any notice for you that in November, 1935, you were to be discharged? A. There was no notice until approximately half an hour before I received my discharge notice.

Q. Yes. And what date was that? A. November 30, on Friday.

Q. Yes. Are you sure it was the 30th or the 29th? A. It was the last few days of the work week, the last day in November. It may have been the 29th.

Q. The same day Mr. Wersing was discharged? A. That is correct.

Q. Now, you have already testified that you were one of the organizers of the local of the Independent Brotherhood of Utility Employees? A. That is correct.

S. M. 552

Q. You have not told us whether or not at any time you had office in that organization? A. With the founding of the local I was a charter member and was elected to the Executive Board. That was in April or May of 1934. In the first annual election of the local, in February, 1935, I was elected to the vice-presidency.

1640

Q. And before being elected to the vice-presidency, had you continued, as testified yesterday by you, being active in your local work? A. Yes, I was intensely active.

Q. And did that action take the form other than the distribution of leaflets? A. Yes, it did.

Q. Tell us something about the kind of activity which you were engaged in up to the time that you became vice-president? A. I assisted and prepared leaflets for distribution.

Q. Yes. A. I handled the publicity in connection with the local in its organizational work and its criticism of some of the company's policies. I presided at open meetings of the local in the absence of Mr. Wersing, who was on night duty at that time, and, of course, I visited people in their homes, endeavoring to solicit their membership in the organization.

1641

S. M. 553

Q. Did you have any discussion during that period of time with any of your foremen or supervisory employees about your labor organization? A. Yes, I had discussions with the auditor, I had discussions with various officials, Mr. Locke, Mr. George A. Housenbower, the

1642

*J. A. Grulich—For N.L.R.B.—Direct*

present auditor of the Queens Company, but in the main, I might qualify it; these discussions were of a friendly nature and sometimes these officials perhaps stated their sympathies, and then again they perhaps criticized certain tactics, it was more or less of a friendly discussion, I really was not on the carpet for this, for my activities, at least I didn't think so.

1643

Q. Yes, now, during that same period of time up to the time you became vice-president, were you a member of the employees' representation association? A. Yes, I was a member of that organization.

Q. When did you become a member of it? A. At its institution in the Queens Light Company, I believe, it went into effect in May 1, 1934.

Q. Were you an officer of it? A. No.

Q. You simply held membership, is that right? A. I simply held membership and participated in certain activities.

S. M. 534

1644

Q. Yes, did you participate in those activities after you became a member of the Brotherhood of Utility Employees? A. Yes.

Q. Did you continue being as active as you had been before you joined the Utility Employees? A. You mean as active in the Independent Union?

Q. No, did you continue being active in the employee representation association after you became a member of the Utility Employees? A. Yes, I participated in its various functions and elections and electioneering, and any other activities that a regular member would participate in.

Judge Ransom: He was a member of the Brotherhood, he testified, before the employees set up their electoral system.

Q. (By Mr. Moscovitz) Well, weren't the two organizations organized at about the same time? A. No, I joined the Independent Union in January.

Q: What year? A. 1934.

Q. Yes. A. And I recall being very active in exposing the company union as the tool, an instrument of the management, in forestalling and denying genuine organization to the employees. I recall distributing a lot of literature on it, and I recall explaining to my fellow

S. M. 555

1646

workers in my department the difference between an independent organization and one that was sponsored by the company. Of course, when the company union came along and there was no stopping it, I really got into it and thought that I should work in that way, I thought that I could work within the organization, the frame of it in exposing its futility, and for that reason I participated in it.

Q. Well, was the employee representation association then in existence? A. No, it went into existence officially May 1, 1934.

Q. After your organization was started, is that right? A. The local was not established, understand, Queens Local 103 was not established at the time the company union was voted upon, and at the time it went into effect the local was established shortly thereafter, if I recall correctly, but previous to its institution—

1647

Q. Previous to what institution? A. The company union's institution.

Judge Ransom: I object to this constant attempt to create prejudice by calling this a company union. And I would seriously contend that it was. I move to strike out the characterization.



1848

*J. A. Grulich—For N.L.R.B.—Direct*

Trial Examiner Gates: Did the organization have a name?

The Witness: Yes, but it was commonly referred to as the company union by everybody.

S. M. 556

Trial Examiner Gates: What was its name?

The Witness: Employees representation plan.

Trial Examiner Gates: Suppose you refer to it that way.

1649

Judge Ransom: Is the motion to strike granted?

Trial Examiner Gates: It may be stricken.

Q. (By Mr. Moscovitz) Yes? A. As I said before, Queens Local 103 was established just shortly after the institution of the employees representation plan, but previous to its institution, we had a nuclei of members in the Independent Union, the Brotherhood of Utility Employees, who functioned out of the national offices in New York City, but we had our meetings in Queens. We did not have sufficient members at the time to apply for a charter, but we really functioned as an organization.

1650

Q. And the employee representation plan continued, did it not, up to the time you became vice-president of your organization? A. Yes.

Q. And isn't it a fact that some of the members of the Utility Employees were also members of the employees representation plan? A. Yes..

Q. Do you recall whether or not the employee representation plan was in existence when you were last em-

S. M. 557

ployed by the company? A. Yes, it was.

Q. And were you still a member of it? A. Yes.

Q. And it was through them, too, wasn't it, that members of your labor organization, Utility Employees, continued in their membership in the employee representation plan? Is that right? A. Yes, the majority of them did.

Q. After you became vice-president of your organization, did you assume any responsibilities as an officer which brought you in contact with representatives of management? A. Yes, I did.

Q. What were they? A. I participated with Mr. Wersing in conference with Mr. H. L. Snyder, the then president of the Queens Company, regarding a questionable point in a reclassification that Mr. Wersing had requested.

Q. When was that, do you recall? A. Either March or April, I believe.

Q. 1935? A. 1935.

Judge Ransom: Will you bring out whether that was Mr. Wersing's request for his own classification from second grade to first grade clerk?

S. M. 558

Q. (By Mr. Moscovitz) Did you hear Mr. Wersing testify on that point? A. Yes, I did.

Q. Do you recall how this reclassification question came up? A. Yes, Mr. Wersing had made application for a particular job, and it seems Mr. Wersing did not get a response to his application. Mr. Wersing at the time was under the impression that due to his organization affiliations, he was being discriminated against.

Judge Ransom: I move to strike out the witness's argument as wholly incompetent. It is enough to have Mr. Wersing speculate while he

1854

*J. A. Grulich—For N.L.R.B.—Direct*

is on the stand, but this witness cannot certainly speculate as to what was in Mr. Wersing's mind.

Trial Examiner Gates: It may be stricken.

Q. (By Mr. Moscovitz) Was this the first reclassification request of Mr. Wersing's that you became familiar with? A. Yes, that is the first one. I believe he spoke of two of them yesterday.

Q. That's right. And this is the first? A. That's right.

1855

Q. You testified that you heard his testimony yesterday on that point? A. That is right.

S. M. 559

Q. Do you have anything further to add to the testimony that he gave on this reclassification question? A. No, I think he covered the question quite thoroughly yesterday, I really don't see anything I could add to it.

1856

Q. Do you recall whether or not at any time before March or April, 1935, when this first reclassification question came up, you had brought to the attention of management in any form or way the fact that you were an officer of the Utility Employees? A. Yes, I dispatched a letter to Mr. George A. Housenbower, the auditor, informing him of the fact that I had been elected to the vice-presidency of the local.

Q. Do you recall when it was that you sent that letter? A. It was either February or March, 1935.

Q. Did you receive a reply from him? A. No, I did not, because I did not ask for one, but I received a verbal acknowledgment from him, I saw him a day or so later in his office.

Q. On business? A. Yes.

Q. Anything to do with your labor organization? A. No.

Q. And what acknowledgment did he make? A. Well, he spoke of the fact that I was in the organization and active in it, he expressed the hope that my work would not interfere, my work in the Independent Union,

S. M. 560

would not interfere with the discharge of my regular duties with the company.

Q. Had he or any other supervisory employee ever complained to you about your organizational activities interfering with your regular work? A. No, I have never received any complaint on that score.

1658

Q. Can you tell me whether or not the first request for reclassification about which you have already testified was the first contact you had with management after you became vice-president of your organization in your official capacity? A. Yes, that was the first time.

Q. All right, was there any contact with management after that time? A. In an official capacity?

Q. Yes. A. As a representative of the Brotherhood?

Q. That's right. A. Yes.

Q. When? A. That was in November, 1935.

Q. What date? A. Oh, I would say around November 10th, perhaps November 15th, perhaps somewhere in there.

1659

S. M. 561

Q. Yes, what happened? A. We went in to see the management in respect to the discharge of one James Mannix, who had been a member of our organization.

Q. When you say "we", who do you refer to? A. The committee that had been established by the local to investigate the circumstances concerning Mr. Mannix's discharge. That committee included Jack Schulter, Mr. Wersing and myself.

1660

*J. A. Grulich—For N.L.R.B.—Direct*

Judge Ransom: I object and move to strike out all the testimony about the question of the discharge of Mannix, on the ground that in the first place it is not within any issue tendered by the complaint; in the second place, the government is bound by the testimony of this witness yesterday in which he, in behalf of the government, repudiated the idea that Mannix's discharge had anything to do with labor matters.

1661

Mr. Moscovitz: I don't intend to prove by these witnesses, Mr. Examiner, that Mannix was improperly discharged, nor do I intend to go into that question, I only elicit this line of testimony so that I can show the kind of activity that these gentlemen were engaged in during this period of time which immediately preceded their discharge, which I think is within the allegations of the complaint.

Trial Examiner Gates: The motion to strike is denied.

S. M. 562

1662

Judge Ransom: Exception.

The Witness: We had gotten Mr. Mannix's story somewhat sketchily concerning his discharge and not having a full report, why, rather than go on half-cocked, we decided to go in to see the management to get their side of the story.

Mr. Mannix was known as a union man. In fact, he was prominently known as a brotherhood man. He was featured in a radio speech in behalf of the Brotherhood, in which he criticised the union and its utility as an agency for collective bargaining, and for that reason—

Judge Ransom: I move to strike out the whole

*J. A. Grulich—For N.L.R.B.—Direct*

1663

answer, wholly outside of the issues here and grossly improper, not probative, not involved in the case.

Mr. Moscovitz: I do object to it being stricken, Mr. Examiner, because I think it quite proper that the Board have before it the reasons why this company considered it important to take certain organizational questions up with management. I don't for a moment suggest that the facts which surround, which make up the background for their going in to make their request, that is, nor do I suggest that this testimony establishes it, but I think it quite proper to be in the record so that the Board may see what motivated these people in their presenting their side of the case, or attempting to investigate both sides of the case.

1664

S. M. 563

Judge Ransom: I submit it tenders an issue to which— Please repeat the last question and answer.

(Reporter repeated the last question and answer.)

1665

Judge Ransom: I submit it tenders an issue of which respondents had no notice, and as to which the previous witness in behalf of the government has repudiated that the matter had anything to do with labor matters.

Trial Examiner Gates: The answer may stand.

Judge Ransom: Exception.

A. Mannix's discharge—

Trial Examiner Gates: Just a moment. I believe the question has been answered as put to the witness.



1666

*J. A. Grulich—For N.L.R.B.—Direct*

Q. (By Mr. Moscovitz) You went with Mr. Wersing and these other gentlemen to see whom? A. Mr. H. C. Dean.

Q. Yes. And Mr. Dean was acting at that time in what capacity? A. Vice-president.

Q. Of the company? A. Yes, the Queens Company, yes.

Q. And did you spend much time with Mr. Dean? A. Perhaps 15 minutes.

Q. And who was the spokesman for your committee?

1667

Judge Ransom: Your Honor understands I have an objection to all this testimony on the Man-

S. M. 564

nix matter.

Trial Examiner Gates: It may be understood that your objection applies to the whole line.

A. Mr. Wersing was the spokesman, but we both participated.

1668

Q. (By Mr. Moscovitz) When you say you both participated, you mean yourself and Mr. Wersing? A. Yes, Mr. Wersing presented the purpose of our meeting with Mr. Dean, stating that we were official delegation of the organization, and in the course of the conference, why, I also asked several questions of Mr. Dean.

Q. Yes. And did the other members of the committee speak also? A. No, Mr. Mannix had been invited to participate in the conference, but he failed to make his appearance. However, Mr. Waterhouse, personnel manager of the Queens Company, was present at the conference.

Q. And did he also participate in the discussion? A. No, he was merely an observer.

Q. What were the questions that you asked, if you recall? A. I do not recall the questions particularly that I asked.

Q. Do you recall whether or not you secured any information from management at that meeting which could be used as a basis of determination of the question which you had before you? A. Yes, Mr. Dean finally informed us that Mr. Mannix had been discharged for the good of

S. M. 565

the service, and he also informed us that, I believe it was his immediate supervisor, who was also discharged, and a still higher official that was demoted. 1670

Q. Who were those two persons?

Judge Ransom: Objected to as wholly immaterial and outside any issues here.

A. I really don't recall.

S. M. 566

Trial Examiner Gates: Just a moment. There was an objection interposed.

The Witness: I am sorry.

Trial Examiner Gates: Objection sustained. 1671

A. I don't recall their names.

Trial Examiner Gates: It may be stricken.

Q. (By Mr. Moscovitz) Did he explain to you what he meant by being dismissed for the good of the service?

Judge Ransom: Objected to as immaterial and not within any issue here.

Trial Examiner Gates: He may answer.

A. No, he did not tell us any—he did not give us any specific information, but he intimated that Mr. Man-

1672

*J. A. Grulich—For N.L.R.B.—Direct*

nix had been involved in irregularities in which he violated the company rules. He did not go into detail, however.

Q. What was the nature of the intimation? A. He did not broach on that, whatsoever.

Q. Well, after you left did you make a report of your meeting to your membership? A. Yes.

1673

Q. Was that the last step that you gentlemen took in behalf of Mr. Mannix? A. Yes, and I may add that the report for the membership was published in one of the papers concerning the disposition of the case insofar as the union was concerned.

S. M. 567

Q. You mean a regular daily newspaper? A. No, it was our regular official bulletin.

Q. What was its name? A. The "Live Wire".

Q. About when did that appear? A. It was distributed about November 25.

Q. 1935? A. That is correct.

1674

Q. And was your name or were the names of the members of the committee printed? A. I do not recall, but I could check.

Q. Will you check? A. Sure.

(Witness consults records.)

A. No, the names of the committee are not given.

S. M. 568

Q. Are the names of any members of the committee given? A. No, sir.

Q. Does your name appear on the "Live Wire" in any respect? A. Yes, sir, signed articles.

Q. Now, did you sign them—how did you sign them? A. J. A. Grulich, and also several pseudonyms.

*J. A. Grulich—For N.L.R.B.—Direct*

1675

Q. I see, and you have just been referring to the publication of the "Live Wire" of what date? A. December, 1935.

Q. So that it was published after your conference, and after your discharge? A. No, the paper appeared just a few days before our discharge.

Q. I see, and was it distributed a few days before your discharge? A. That's correct.

Q. And is that a paper which is distributed by hand? A. Yes, it is distributed, it was distributed by the Brotherhood men at various points in the Queens Company.

1676

Q. At points of ingress and egress? A. Yes.

Q. Persons going in and out of the plant? A. That's right, and offices.

Q. And offices? A. Right.

S. M. 569

Q. Did you at any time after your conference with Mr. Dean, but before your discharge, have any other conference with a representative of management? A. Yes, I did, with Mr. Locke, my chief.

Q. When was that in relation to the date of your discharge? A. That was just about ten days, I would say, before my discharge.

1677

Q. Did you speak with him alone? A. Yes, I did.

Q. Well, tell us about it? A. The conference with Mr. Locke concerned a distribution of literature that I had made at a meeting that was sponsored by a political organization that was supposed to be in effect among employees of the New York and Queens Electric Light and Power Company. This meeting was held around the middle of November in the auditorium of the public school in Jackson Heights. The literature, the content of the leaflet distributed, denounced the purpose of the

1678

*J. A. Grulich—For N.L.R.B.—Direct*

meeting. I believe it concerned the Mayor's stand in advocating a municipal yardstick light plant and the leaflet criticized company union representatives who composed this committee in charge of affairs, instead of working for the interests of the employees—

Judge Ransom: I move to strike out the answer as not within any issue in this case, purely argumentative, self-serving.

1679

S. M. 570

Trial Examiner Gates: It may stand.

Judge Ransom: I move to strike out the persistent characterization of company union. If the witness wishes to make his argument, he ought not to do it under oath and on the stand.

Trial Examiner Gates: The testimony that is in may stand, but I will again ask in referring to the employees organization that you refer to it by its name.

Mr. Moscovitz: Can't we have an understanding that the two words are to be used interchangeably "plan" and "company union" without any connotation or characterization?

1680

Judge Ransom: I think it is better—you can make any argument that you want, of course, but I think the witness is supposed at least to stick somewhat to facts.

Mr. Moscovitz: The witness has already been instructed to use the word, hasn't he?

Trial Examiner Gates: Yes.

Q. (By Mr. Moscovitz) Will you continue then your statement that you were making? A. Yes, the leaflet criticized the various employees representation officials that sponsored the meeting.

*J. A. Grulich—For N.L.R.B.—Direct*

1681

It pointed out that such a meeting was not in the interest of the employees, that the E. R. P. represented us instead of interesting themselves in politics or should represent us instead of interesting themselves in politics and the Mayor's yardstick light plan, et cetera, that they

S. M. 571.

should devote their time and efforts to fight the layoffs that were then threatening.

Just before the meeting started, I was out in front of the school distributing these circulars, and just before the meeting started I went upstairs to see the extent of the crowd that was in the auditorium and I was standing in the back, in the entrance of the auditorium, and I, of course, had the leaflets with me and some of the individuals in the back row, seeing me and the leaflets, motioned for me to come in to give them a few leaflets, which I did not see any harm in doing.

1682

I did that and no sooner than I got in to give these people the leaflets when others down further towards the front of the auditorium wanted them also, so I walked down the aisle and I gave everyone leaflets, and on the way out, why, I was confronted by two representatives of the employee representation plan and I was threatened with violence.

1683

Q. Who were they?

Judge Ransom: I move to strike out the answer as completely and wholly outside any issues here, drawn in simply for an obvious purpose of argument.

Trial Examiner Gates: It may stand.

Judge Ransom: Exception.

Q. (By Mr. Moscovitz) Who were these two representatives? A. Their names I do not know, but I know



*J. A. Grulich—For N.L.R.B.—Direct*

S. M. 572

them to have been general council members, having seen them at the general council meetings which I attended as an alternate and I know that they were general council representatives. The man asked me, "What are you doing in this meeting, what are you trying to do? Do you want to get something that you don't like?" Or words to that effect. And I said, "Well, what's the matter", I said, "There is no harm in this, this is a democratic meeting, isn't it? I am a member of this organization just as well as you are. If I express an opposite point of view that is my privilege." Then they conducted me out in the back of the hall and finally out.

Q. Now, was that the question or the subject of the meeting that you were discussing with Mr. Locke? A. Yes.

Q. Did he call you in to discuss this matter? A. I happened to be working right next to him and we somehow or other got talking about it and he did not think it was very ethical of me to make this distribution in the hall, he happened to be there.

Q. What did he say about it? A. He said he did not think it was just the thing to do.

Judge Ransom: I object to that as immaterial and outside of any issues here.

Trial Examiner Gates: The objection is overruled.

S. M. 573

A. He said he didn't think that was just the thing to do. I don't believe he really criticized me, but he was more or less admonishing me.

Q. (By Mr. Moscovitz) Did you have any conversation after that with a supervisory employee before your

discharge about your organizational activities? A. None that I recall.

Q. Do you recall that before this there was a layoff of 25 men, or 25 persons? A. Correct.

Q. Do you recall how many days or weeks before your discharge? A. The layoff that I know of occurred in August at which time it included our secretary, Alfred Wrench.

Q. But there were no persons in your division who were affected by that layoff? A. No.

Q. Was it the first layoff that you knew of since you had been with the company that was general in nature? A. No, I had known of another one specifically.

Q. Was that before that one? A. Yes.

Q. Do you recall how long before that one? A. Do you mind if I check?

Q. Go right ahead. A. Yes, the previous one occurred approximately in October, 1934.

S. M. 574

Q. What was the number involved in that layoff, do you recall? A. Approximately 50 men.

Q. Did that layoff affect your division? A. No, sir.

Q. Now, will you tell us what happened on the day of your discharge? A. I received my regular weekly salary in the form of a check in the morning, with no intimation whatsoever of the discharge which ensued in the afternoon.

In the afternoon, at approximately four o'clock, I was summoned to my chief's desk.

Q. Is that Mr. Locke? A. Correct.

Trial Examiner Gates: How is that name spelled?

€ The Witness: L-o-c-k.

1690

*J. A. Grulich—For N.L.R.B.—Direct*

A. And he excitedly told me that Mr. Payne of the personnel department wanted myself and Mr. Wersing to report to him immediately.

Q. (By Mr. Moscovitz) Did he indicate to you what Mr. Payne wanted you for? A. No. I recall distinctly asking him, "Well, what's up?" And he said he didn't know.

Q. Now, before you and Mr. Wersing went up, do you know whether or not any other persons in your division had been laid off or discharged? A. No, I did not.

1691

S. M. 575

Q. Had anybody been laid off or discharged before you went up? A. Just before we went in?

Q. Yes. A. I didn't know any.

Q. Or at any time before you went up? A. I didn't know of anyone until I got over to the personnel department.

Q. And who was the other person that you learned of when you got up there? A. Mr. Michael A. Wagner, the Local's treasurer, and one Clem Verrone.

Q. Just the four of you? A. That is all I knew of.

1692

Q. All from the same division? A. No.

Q. I am talking now only about your division? A. Oh, I see.

Q. Had any other persons in your division been laid off or discharged at any time before you and Mr. Wersing went up to see Mr. Payne? A. No.

Q. All right, after Mr. Lock told you that you were to go up and see Mr. Payne, did you have any other discussion with him? A. With Mr. Lock?

S. M. 576

Q. Yes. A. No.

Q. Did you go right up? A. Yes.

Q. Then what took place? A. How is that?

Q. Then what took place? A. Well, we were told to wait in the ante room of the personnel office, a sort of reception room.

Q. Yes. A. Mr. Wersing went in first. While sitting there, waiting for our turn to go in to see Mr. Payne, we noticed Mr. Wagner coming out of the office through another exit. And Mr. Wersing then went in and after a few minutes he came out and I went in.

Mr. Payne started off by saying, "Well, I have some very bad news for you." 1694

So I said, "Spill it," because I know him quite well.

And he says, "We are laying you off. The management is discontinuing a certain department and to find jobs for the married men from that department, they are laying off single men and you have been chosen as one of the single men to go."

S. M. 577

Q. What was the department that was being discontinued? Did he tell you? A. I don't believe he told me, I don't recall it anyway. 1695

Q. Did he point out to you from what departments or divisions single men were being laid off to make place for the married men? A. No, he did not point it out. However, I knew that Mr. Wersing had just been in and Mr. Wagner and I was there.

Q. What did you say to him about it? A. I says, "Well, why pick on me? There are plenty other people with less seniority than myself."

Q. Were you referring to your division? A. Well, I was referring not only to my own division but to the entire company.

1696

*J. A. Grulich—For N.L.R.B.—Direct*

Q. Yes. A. He said, "Well, I don't know anything about that." He said, "I am merely carrying out orders."

Q. Did he tell you whose orders he was carrying out? A. No, he did not.

Q. Did you have anything further to say to him at that time? A. No, I don't believe I said much more.

1697

Q. Did he make any further reference to your seniority statement? A. No, he did not, he did not seem to be inclined whatever to discuss the matter, except to hand me my two weeks pay, and due notice, and get my

S. M. 578

signature on the severance.

Q. Were there any persons in your division at that time who had less seniority than you? A. Yes.

Q. How many? A. In my department?

Q. Take your division, for instance. A. In my division there were at least ten or twelve people.

Q. In your division? A. Right.

Q. Were those ten or twelve people single or married? A. Some were single, some were married.

1698

Q. Were there any persons in your department, outside of the persons within your division, who had less seniority than you? A. Yes, there were quite a few, at the time of President Roosevelt's reemployment—

Q. Agreement? A. Agreement, yes, the company at that time took on a number of men in that particular department. I had seniority not only over those men, therefore, but men that were hired even prior to the President's reemployment agreement.

Q. And do you recall about how many in number? A. Well, it is difficult to estimate, but I would say at least 20 or 25 or 30 percent.

Q. What kind of work were these persons doing in your division over whom you had more seniority? A.

S. M. 579

Well, some of them did stock posting on stock records and some of them worked on the accounting procedure of material stock requisitions, the work that they did involved different phases in the division.

Q. Yes. Was the work—was it work which your experience qualified you to handle? A. Yes.

Judge Ransom: I object to that as incompetent and self-serving.

1700

Trial Examiner Gates: Overruled. I think it would be well to explain whether or not he had ever done it before.

Mr. Moscovitz: What was your answer to that?

A. I could do it, I could do all that.

Judge Ransom: Exception.

Q. (By Mr. Moscovitz) Was it work that you had ever done? A. Yes, I had done that work.

1701

Q. Was it work that you had done prior to the assumption of your new additional responsibilities, or was it work that you were doing right along? A. Well, it was work that I had been doing off and on almost right to the time of my discharge because at times if there was someone ill and there was not anyone else at hand to carry on the particular records, why I often took it on if I had leisure.

S. M. 580

Q. And the work which was done by the persons with less seniority in other divisions which composed your



1702

*J. A. Grulich—For N.L.R.B.—Direct*

department, was that work of a similar nature? A. It was to a degree, I did not think any of that work required a great deal of past experience or training, in fact, every worker had a certain proportion to do and a certain limited amount prescribed, a certain prescribed routine, and when you once acquired the routine which was easy enough to acquire, you could dispatch the work quite easily.

1703

In fact, I was asked by Mr. Charles Monica, the accountant of the work order bureau, I was asked on a number of occasions prior to my discharge to come over and to accept a position in his department. He evidently felt that I could do the work.

Q. How long prior to the date of discharge was that?

A. Well, I have been asked a number of times by him whether I would like to work in his department.

Q. Do you recall when you were last asked in relation to the date of your discharge? A. Perhaps in the spring of 1935 and at the time shortly after the reclassification went into effect. I believe that was in May or June of 1934.

1704

Q. Now, let's see, Mr. Wersing was discharged on that day? A. Well—

S. M. 581

Q. He was president of your local? A. No, he was general manager of the local.

Q. General manager? A. Yes.

Q. What was your office? A. I was acting president.

Q. Now, was Mr. Wagner discharged that day? A. Yes, sir, he was:

Q. Did he hold an office with the union? A. Yes, sir, he was treasurer of the local.

Q. Any other officer discharged that day? A. No, sir.

Q. Well, did that leave you with any officers? A. None, with the exception of the executive board.

Q. So that you were without officership in so far as working within the plant was concerned, is that it? A. Right.

Q. Did you have a secretary? A. Mr. Wrench performed the duties of the secretary.

Q. He had already been discharged, is that right? A. Right.

Q. Now, did you take any steps—I withdraw that, please. Did you receive any additional payment at the time of your discharge? A. Two weeks in lieu of notice.

S. M. 582

Q. And have you received income other than that about which you have already testified as to a writer for the Federal Writer's Project since the date of your discharge? A. None.

Q. Now, what was the exact amount that you were making on the day that you were last employed? A. At the Queens Company?

Q. Yes. A. \$28.75.

Q. Did you, by yourself, or through your organization committee take any steps after your discharge to secure reinstatement with the company? A. Yes, sir.

Q. Was that through your own efforts or through the efforts of your committee? A. Through the efforts of the committee.

Q. And was that done as testified to yesterday by Mr. Wersing? A. That is right.

Q. And meetings with Mayor LaGuardia? A. Yes.

Q. Mr. Largay and Mr. Portenell? A. Yes, sir. Also with the committee going direct to Mr. Dean.

Q. You heard Mr. Wersing's testimony regarding those efforts? A. No, I was out of the hearing room at the time.

1708

*J. A. Grulich—For N.L.R.B.—Direct*

Q. Did you go yourself to see Mr. Dean after your discharge? A. No, sir.

S. M. 583

1709

Q. Did you go yourself to any of these meetings to which I have referred, such as the meeting with Mayor LaGuardia, Mr. Portenell, Mr. Largay of the State Department of Labor? A. Yes, I was in conference with Mr. Largay and Mr. Portenell, or at least I was present, and I was also present when the committee went down to see Mayor LaGuardia.

Q. And none of those conferences resulted in the submission of the question for some peaceful disposition. Is that right? A. That's right.

Q. No machinery was set up for the adjudication of your discharge? A. It was suggested, but it did not come about.

Q. By whom was it suggested? A. Mayor LaGuardia.

Judge Ransom: I object to that as immaterial.

Trial Examiner Gates: Objection is overruled.

1710

Mr. Ransom: Exception.

Q. (By Mr. Moscovitz) Now, can you tell me whether or not there was a strike vote effective during the period of time that these negotiations were going on? A. If I recall correctly the emergency committee was vested to call a strike and the negotiations or attempts to settle the dispute amicably proceeded after the emergency committee had been vested with the power to call strikes.

S. M. 584

Q. Now, these negotiations having failed, and the strike not having taken place, did you take any further

steps to secure your reinstatement or was the matter—  
A. No, but I attempted to secure the severance allowance.

Q. I am just talking now about your attempt to secure your reinstatement? A. No.

Q. And the matter was then filed with the Labor Board so that the question is now before us, is that right? A. That's correct.

Q. Now, are you desirous of going back to work for the company? A. Yes.

Mr. Moscovitz: That's all.

1712

Trial Examiner Gates: We will recess for a few minutes.

(Whereupon a short recess was taken.)

#### AFTER RECESS.

Trial Examiner Gates: Proceed.

#### CROSS EXAMINATION:

Q. (By Mr. Ransom) Mr. Grulich, at the time of your discharge you were unmarried? A. Yes, sir.

1713

Q. What was your age? A. 31.

Q. And all of your work for the company had in one capacity or another related to the stores accounts? A.

S. M. 525

Division.

Q. What? A. Stores accounts division.

Q. Yes, and you spoke about a reduction in your salary, that was a reduction made generally in the company at the time the President's reemployment agreement was signed? A. The reduction was made May 1st, 1933.

1726

*J. A. Grulich—For N.L.R.B.—Cross*

to Local 103, the names of the officers elected were published.

Q. That is, they were published and circulated among the employees in literature which was distributed? A. Correct.

S. M. 591

Q. And had there been no formal officers until early in 1935? A. There were acting officers.

1727

Q. And had those persons, those acting officers, yourself among them, from time to time gotten out leaflet publicity of the sort that you refer to? A. That's correct.

Q. And had also had a newspaper published? A. It was really from that point on that the organization got out publicity, hitherto the publicity was issued from the New York office of the Brotherhood, it was really at the time that we began to function as a union, from the time that we were chartered as a union that we issued our own publicity and our own literature.

Q. And up to that time it had been done from the New York office? A. That's right.

1728

Q. But through what you call these acting officers of your group? A. No, the New York office had at that time its duly elected officers.

Q. But didn't you and Mr. Wersing have anything to do with the publicity before the actual chartering of your local? A. The distribution of it.

Q. And not with the preparation? A. No.

S. M. 592

Q. By the way, when did you first become acquainted with Mr. Wersing? A. Oh, I met Mr. Wersing perhaps in February, 19—February or March, 1934.

Q. Can you state definitely the date of your letter

to the auditor of the company saying that you had been elected the vice president of the Local Union? A. I don't know the date but it is on file here.

Judge Ransom: Can you give the date?

Mr. Moscovitz: February 24, 1935, a letter to Mr. Hausenbauer.

Q. (By Judge Ransom) You stated in answer to a question by Mr. Moscovitz, at least you made reference to the efforts which you made after the termination of your employment to obtain what the company calls a separation allowance for yourself under the provisional retirement plan for employees? A. I didn't make any statement to Mr. Moscovitz.

Q. Well, you referred to your efforts, I think. Did you make such an effort? A. Yes.

Q. And did that effort take the form of a suit in court? A. Later in the proceedings it did, yes.

Q. That is, you and Mr. Wersing and Mr. Wagner? A. After trying normal means of obtaining it.

Q. That is, you first brought the matter to the atten-

tion of the company by correspondence? A. Mr. L. A. Coleman, executive vice president, I believe.

Q. And later you consulted counsel and brought suit. Is that correct? A. That is correct.

Q. And that suit was brought by you and Mr. Wersing and Mr. Wagner? A. Correct.

Q. Can you fix the approximate time when you brought that suit? A. The case was scheduled for trial since May, 1935—1936, rather.

Q. So that presumably it was brought some time in the spring or summer of 1936? A. A very peculiar thing



1732

*J. A. Grulich—For N.L.R.B.—Cross*

—it didn't come up until late fall that year, or early in the fall rather, after the summer session.

Q. Well, it was started that spring? A. Yes.

Q. Who was your attorney in that suit? A. Mr. Charles Bellous.

Q. And Mr. Wersing stated, as I understood it, that in some division of labor between you, that you more or less took charge of that suit, as far as— A. Well, it was understood that I should take the responsibility.

1733 S. M. 594

Q. And was Mr. Bellous an attorney selected by you or by the others? A. By mutual consent.

Q. What? A. By mutual consent.

Q. And did you place before him the facts as to your discharge and the basis of your claim? You did that, didn't you? A. Yes.

Q. And you did that some time in the spring of 1936? A. Yes.

1734

Q. And he brought suit and conducted the case before the Municipal Court in the first instance, and then before the Appellate Term, and then finally made application to the Appellate Division. Is that correct? A. Yes, that was the procedure, I believe, that was followed.

Q. Yes. And the result in all courts was adverse to your claim? A. Yes.

Q. And you had made a full and frank disclosure to Mr. Bellous of the circumstances of your discharge, hadn't you? A. Absolutely.

Q. And you worked with him or consulted with him regarding the papers in the case; didn't you? A. Yes.

S. M. 595

Mr. Moscovitz: Mr. Examiner, I do not like to interrupt Judge Ransom, but I do object if this

line of questioning goes to an endeavor to establish that there had been an adjudication elsewhere of the question of whether or not this particular witness has been discharged for union membership and activities, in violation of the National Labor Relations Act.

Judge Ransom: I am not at the moment addressing myself to that phase of the matter.

Mr. Moscovitz: Then I cannot quite see that this cross examination comes at all within the direct testimony that has been elicited.

1736

Judge Ransom: I think that will—

Trial Examiner Gates: Well, I will suggest that there must be limitation here. I think that is not particularly pertinent.

Judge Ransom: I think Your Honor will see that it is pertinent very quickly. May the question be read back to the witness?

(Question read.)

Q. (By Judge Ransom) Were you familiar with briefs which he had filed in your behalf in the court in support of your action?

1737

Mr. Moscovitz: Mr. Examiner, I must—well, I will withdraw that.

S. M. 596

Q. (By Mr. Ransom) Were you? A. I have read it.

Q. I read to you this statement from the brief.

Mr. Moscovitz: Now, Mr. Examiner—

Judge Ransom: I want to ask him whether it is an accurate statement. I shall, I trust, pursue the proper course after that.

Mr. Moscovitz: Mr. Examiner, I do not know

1738

*J. A. Grulich—For N.L.R.B.—Cross*

quite about the propriety of Judge Ransom reading into the record some statement that some lawyer put into a brief.

Judge Ransom: I propose to show Your Honor that months afterwards these men, through their lawyer, represented to the courts of the State of New York that they were not discharged for any such reason that they now venture to suggest, and they went through three courts on that basis.

1739

Mr. Moscovitz: They had no basis for this kind of relief in state courts. There is nothing unusual about going into various courts on different pleadings.

Judge Ransom: I presume plaintiffs are not entitled to shift their ground.

Trial Examiner Gates: The question may be finished.

1740

Q. (By Judge Ransom) I will read you the following statement from what will, if necessary, be proved to be the brief filed by Mr. Charles Bellous on your behalf in the case entitled "Municipal Court of the City of New York, Borough of Queens, First Division: J. A.

S. M. 597

Grulich, Michael A. Wagner and Martin A. Wersing, plaintiffs, against New York and Queens Electric Light and Power Company, Inc., a domestic corporation, defendant."

After referring to the adoption of the retirement plan for posting on the bulletin board, I quote: "Several months thereafter plaintiffs herein were discharged by the defendant for no other reason than that they had to make adjustments in the department looking toward further economies."

*J. A. Grulich—For N.L.R.B.—Cross*

1741

I ask you whether that statement was made in pursuance of the information which you, in the spring of 1936, gave to your attorney, Mr. Bellous? A. In fact, to qualify my answer—

Q. Well, is it or isn't it? A. Yes, but later on—

Q. Answer yes or no. A. Later on the same brief also points out the labor activities that we were engaged in to get, to file, suit and to base the claim we were merely quoting the reasons that the company gave, the company says, that they were firing us for economy reasons and after all that is not our reason, that is a company reason.

1742

Q. Well, if you desire— A. That is what the company told us.

Q. We will put the brief in evidence. A. Well, I

S. M. 598

said—

Q. But I ask you if that was a true and correct statement in pursuance of the information which you gave to Mr. Bellous? A. That is the position we took in an effort to get the money, otherwise we would not have gotten, or we did not get it anyway.

1743

Q. Well, you didn't get it, did you? A. No, sir.

Q. You referred to the letting out of employees in the summer of 1935 and referred to the number as 25? A. Yes, I approximated it at 25, I really don't know.

Q. You mean you don't undertake to say that the number at that time was not around 100, do you? A. I have no idea.

Q. And you did not mean to give to this Examiner and the Board that the number was no more than 25 or any similar sum? A. To the best of my knowledge the figure was around 25 or 30.

Q. Well, how many men do you say were let out on

1744

*J. A. Grulich—For N.L.R.B.—Cross*

that same day that you were, what was the total number? A. I know of three besides myself.

Q. That's all that you know about? A. I learned later, I was told, second information, I overheard it, there were six altogether, five including myself.

Judge Ransom: That's all.

S. M. 599

Mr. Moscovitz: That's all.

1745

Trial Examiner Gates: I have one or two questions.

*Examination by Trial Examiner:*

Q. (By Trial Examiner Gates) I am not sure that you stated when you went to see Mr. Dean relative to Mr. Mannix? A. In November, 1935.

Q. Can you place the date any more closely than that? A. A report was made to the local on November 21st, let's see, the conference with Mr. Dean must have taken place perhaps a week before that.

Q. Around the 14th? A. Yes, I would say around there.

1746

Q. I have not attempted to compute it accurately, but your annual rate, was it more on the writer's project than at the other work? A. No, sir. When I first started with the writer's project my weekly rate there was \$21.57, it actually was higher if you figure it on an hourly basis because that was only for a four-day week, six hours a day. It actually, if you figure the number of hours, it would come to a higher salary than with the Queens Company and in July, 1936—

Q. You were— A. Increased.

Q. \$21.57 is the weekly rate? And \$23.86 was also a weekly rate? A. That began in July, yes, sir.

*William J. Kennedy—For N.L.R.B.—Direct*

1747

S. M. 600

Q. I thought you were referring to \$100.00 on the basis of the annual rate? A. No.

Trial Examiner Gates: That is all.

Mr. Moscovitz: That is all.

(Witness excused.)

Mr. Moscovitz: I will call Mr. Kennedy.

1748

WILLIAM J. KENNEDY, called as a witness for the National Labor Relations Board, being first duly sworn, testified as follows:

*Direct Examination:*

Q. (By Mr. Moscovitz) What is your name? A. Wm. J. Kennedy.

Q. Where do you live? A. 14-19 111th Street, College Point, Long Island.

1749

Q. By whom are you employed at the present time?

A. By the C.I.O. in the utility division.

Q. In what capacity? A. Organizer.

Q. How long have you been so employed? A. I was first employed as an organizer by the United Electrical and Radio Workers.

Q. When was that? A. The latter part of March, 1937, when Mr. John L. Lewis made a general drive

S. M. 601

throughout the utility industry and throughout the en-



1750

*William J. Kennedy—For N.L.R.B.—Direct*

tire United States, I was taken on as a full time organizer by the C.I.O. itself.

Q. And that is the work you are presently engaged in? A. Yes, sir.

Q. Were you employed elsewhere before you went to work for the U.R.E.W. as an organizer? A. I had attempted to go in business after being discharged by the company.

Q. When was that? A. August of 1936.

Q. Did you go in business? A. Yes, sir.

1751

Q. When did you go in business? A. In August of 1936.

Q. And how long did you continue in business? A. Well, if it could be called a business, it was a failure practically from the beginning.

Q. How long were you engaged in that failure? A. Up until the time, the former 752 Local of the I.B.E.W. became disaffiliated with the I.B.E.W. and became affiliated with the C.I.O.

Q. Do you recall the date? A. I believe it was April 19th.

Q. April 19th? A. 1937.

1752

S. M. 602

Q. 1937? A. Yes, sir.

Q. Now, during that period of time when you were engaged in business for yourself, do I understand your testimony to be that you made no money but lost money? A. I would say I lost money, yes, sir.

Q. Since then have you been working on a regular salary? A. At the time I was taken on by the United Electrical Radio Workers affiliated with C.I.O., I received a salary of \$25.00 a week as a local organizer.

Q. Yes. How long did you work at that salary? A. Approximately six weeks, something like that.

*William J. Kennedy—For N.L.R.B.—Direct*

1753

Q. And then was your salary increased? A. Yes, sir.

Q. What is it now? A. \$40.00 per week.

Q. Was that your increase from \$25.00 to \$40.00?

A. Yes, sir.

Q. And you are still making that amount, is that so? A. Yes, sir.

Q. Is that the only income that you have had since you were discharged from the company? A. Yes, sir.

Q. When were you discharged? A. June 19, 1936.

1754

S. M. 603

Q. From what company? A. New York and Queens Electric Light and Power Company.

Q. Is this the same company Mr. Wersing and Mr. Grulich were employed in? A. Yes, sir.

Q. How long have you worked for that company? A. Eight years and six months.

Q. Were there changes in the type of work which you did during those years? A. Very much so, yes, sir.

Q. What were you first employed to do? A. In January the 18th, 1928, I was reemployed by the company, I had worked for them previous to that time.

1755

Q. When did you first work for the company? A. Shortly after I was discharged from the United States Army, after seven years of service, in 1922 or '23, I believe it was.

Q. How long did you work for the company then? A. About two or two and a half years.

Q. Doing what kind of work? A. I was first employed as a meter tester.

Q. Yes. A. I received an increase after I was transferred from that job to what is called a printo meter inspector; upon asking for an increase I was told that

Q. Yes, and was it in connection with a shortening of the hours of labor and a general cutting of the hours of labor in your department and others? A. At that time the company instituted a 35 hour week, it had been the 38 hour week.

Q. In your department? A. In the entire company.

Q. In the clerical? A. Yes, in the office.

Q. In the clerical accounting offices? A. Right.

Q. And that was the time or about the time the company announced it had signed the President's reemployment agreement and cut hours in pursuance of that? A. Yes, I believe it was more or less in conformance with that.

Q. And that reduced your pay at the time to \$24.75 from \$27.00? A. Yes.

S. M. 586

Q. Then it was restored to \$27.00? A. Yes.

Q. And then at the time of the restoration of part of the original decreases, your pay was made \$28.75? A. Correct.

Q. And that was of what date? A. I believe it was May 1st, 1934.

Q. Or as of the end of April, 1934? A. Yes.

Q. Your work in the stores account related to records of property which came in and out of active use? A. Yes, that was part of my work, yes.

Q. For example, new material of certain kinds, when received, went into stores? A. Right.

Q. That related only to equipment of certain kinds which became part of the fixed capital of the property?

A. Usually used in connection with construction work?

Q. And from time to time units of this equipment which were out on the district were for one reason or

another retired from active use and brought in either for repair or scrap? A. Salvage.

Q. Salvage? A. Yes.

Q. And your work related to the keeping of the fixed capital records relative to the movement of such equip-

S. M. 587

ment in and out of service? A. Yes, and calculating the prices at which it was received.

Q. Equipment which had been received before it was installed, unit prices for its installation, had to be determined in your bureau? A. Yes.

1718

Q. And then that property, when it went out into the district, went into the unit prices which had been determined in your bureau? A. Correct.

Q. Likewise, when a piece of that equipment for any reason went out of use and came back for storage account, you had to ascertain the unit prices at which it had been placed in the district in use, and take into account the amount of salvage as well as the cost of any dismantling. Is that correct? A. Yes.

Q. And consequently, it went out of the cost of service at the ascertained original cost, less, or with, salvage and dismantling given effect? A. Yes.

1719

Q. And that substantially indicates the nature of the work that went on in your bureau and the classes of property to which it related?

S. M. 588

Q. That was in the main the nature of the work that went on in your bureau and the classes of property to which it related? A. That was in the main my duties there, yes.

Q. Yes. You spoke about your activities early in

1720

*J. A. Grulich—For N.L.R.B.—Cross*

1934 after you joined the Independent Brotherhood, with respect to newspaper publicity, and with respect to leaflets? A. Yes.

Q. Now, the newspaper publicity consisted in or included the preparation of statements which were given out to the newspapers about various matters pertaining to your organization, did they not? A. Yes.

Q. And those statements were given out from time to time in your name or in the name of Mr. Wersing and possibly others? Is that correct? A. Usually in the name of the organization.

Q. But didn't those statements often quote Mr. Wersing or yourself? A. Yes.

Q. As saying this or that with respect to some pending matter? A. That is correct.

Q. And that started early in 1934? A. Right.

Mr. Moscovitz: May I interrupt a moment, Judge?

S. M. 589

Judge Ransom: Yes.

1722

Mr. Moscovitz: It was not my recollection that it was early in 1934.

The Witness: I said shortly after I joined the union, I became intensely active, I joined the union in January, 1934.

Q. (By Judge Ransom) You have always had this flare for publicity and newspaper writing? A. I think it is a very valuable thing.

Q. I should think it would be. A. Yes.

Mr. Moscovitz: The only question I was interested in is whether or not the statement was that this publicity was issued then under his name?

Judge Ransom: He so testified under direct and he so testified again on cross examination.

Mr. Moscovitz: That was not my recollection.

Judge Ransom: Up to this moment, I assume it to be true.

Q. (By Mr. Ransom) Now, likewise these leaflets which you said you started getting out, some of those leaflets, with this occasional magazine, and others, were strictly what you would call leaflets, were they not? A. At that time they were leaflets, chiefly concerning the company union which was about to be presented. 1724

Q. Perhaps you might obey the Examiner's instruc-

S. M. 590

tions. A. Excuse me, the employees representation plan.

Q. And they were leaflets regarding that and regarding other matters which were of interest to the officers and members of your organization? A. And the employees in general.

Q. And which you believed to be of interest to the employees? A. Yes.

Q. Those leaflets and the magazine, as you call it, when it later appeared, they contained articles by yourself which you signed, or some of them which you signed? A. Not at that time. 1725

Q. When did you start signing articles in the magazine? A. Well; the "Live Wire" was published, the first issue of the "Live Wire" was published in October, I believe my name appeared in there as the author of one of the articles.

Q. (By Mr. Moscovitz) What year was that?

Q. (By Mr. Ransom) Which year was that? A. 1935.

Q. Yes. A. However, early—earlier in 1935, following the election of the officers in February, the officers



1768

*William J. Kennedy—For N.L.R.B.—Direct*

there are special men because each time there is trouble, generally the same men were called out.

Q. How many first grade linemen were there in your particular outfit? A. Flushing district, or the whole overhead bureau?

Q. The Flushing district? A. Around 40 or 50.

Q. How many districts were there in your bureau? A. There were originally three. This is going back a few years. The Flushing District, Elmhurst District and Jamaica District.

1769

S. M. 611

Q. How many districts were there at the time you were discharged? A. Two.

Q. What were they? A. They had combined the Flushing district with the Elmhurst, which left Elmhurst and Jamaica, that was in 1935, early in 1935.

Q. Was a lay-off incident to that combination? A. No.

Q. Just made it one district, is that all? A. Yes.

Q. How many men were employed throughout the bureau at the time of your discharge? A. The only way I can judge it is by the number of representatives we had in the company union.

1770

Q. All right.

Judge Ransom: I move to strike out the characterization, of "company union."

Q. (By Mr. Moscovitz) Whenever there is any reference to what you have been calling the company union, I would like you to use the words "employee representation plan," or just "plan."

The Witness: Mr. Examiner, we had called that by that title for three years and it is difficult

*William J. Kennedy—For N.L.R.B.—Direct*

1771

now at the last moment to call it by any other title, but I will try. *(S)*

S. M. 612

A. There were approximately 350 men. There was one representative for each 50 employees in the overhead bureau, fractions are not counted, so we had six representatives in the face of that 300, and there were very close to 50 more.

Q. What was the geographical area covered by your bureau? A. Well, after they consolidated or merged, the two bureaus, Flushing and Elmhurst, we were going practically everywhere in Queens County.

1772

Q. How many men outside of yourself, in your division, were called out from time to time to do trouble shooting work? A. It depended on the location and the amount of the trouble.

Q. Who was the first man generally called, do you know? A. Well, that would be hard to say, I was always among the first to get into the plant. There were times when the supervisor would send a man up when the company tried to get me from the house. Ordinarily they would call up, and if you didn't answer the phone, then they would send a man up in the company car. At times the district supervisor came himself in his own car to bring me in when there was trouble in Queens on the overhead lines.

1773

Q. And did that happen from time to time right up until the time you were discharged? A. Yes, it was within one month, one month previous to the date of my discharge we were called out on a Sunday night at

S. M. 613

ten o'clock, a man was sent to the house with a company car.

1774

*William J. Kennedy—For N.L.R.B.—Direct*

Q. Who was the man? A. A man named Martin.

Q. Who is he? A. Who I believe is a heater installer in the Elmhurst district of the overhead bureau. He stated that we had to get him right away, that it wasn't an overhead job at all, it was an underground job, there was a bad burn-out in Long Island City and I was one of the first men to be called from the house, as I said, this car was sent, I was called out, I had been doing cable work also.

1775

Q. When you went out there, how many other men were engaged in the work? A. With this company car I was one of the first to get on the job, there were approximately 20, I should say, before the job was finished the next morning.

Q. And was that overtime work? A. We were paid straight time for it.

Q. Were you sent, outside of these trouble shooting jobs, on any special assignments for the company in the overhead bureau? A. I believe it could be called a special assignment, some years ago there was a big job came through, supposed to be handled originally, I believe, by the meter test department, especially the meter

1776

S. M. 614

department. There was a change over to single and two-element meters, to what is called a three-element meter. They were quite a large affair. There were very few of my men had any experience with them. I was one of the men selected by the bureau supervisor, Mr. Fallon, to take charge of the group who were going out changing over these meters all over the system.

Q. When was that? A. I believe that was 1934.

Q. 1934? A. The latter part of 1934.

Q. How long were you engaged in that work? A. I believe three or four months.

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1777

Q. Did you receive any extra compensation for that?

A. No, sir.

Q. Did you have any similar experiences to relate in other jobs? A. Yes, when they started to do cable work in the overhead bureau, that is, secondary cable work.

Q. When was that? A. That also I believe was the latter part of 1934.

Q. Did it run through until 1935 at all? A. It still continues, I believe, yes, sir.

Q. I mean, your particular job, did it run through until into 1935? A. Oh, these were intermittent jobs,

1778

S. M. 615

sometimes we would be doing line work, but certain men were picked.

Q. Who were the men who were picked, were you on this cable job? A. Another first grade lineman, or a first class lineman, Leo MacDonald, and another first class lineman, William Rogers, and another first class lineman, Alfred McDiggen, and numerous helpers and other linemen.

Q. Who assigned you to the work? A. I believe the general foreman.

1779

Q. What was his name? A. Well, it is Cherdron, John Cherdron.

Q. What was this work? A. It included pulling secondary cable into manholes, what are described as E boxes, car boxes, different type boxes, secondary work, splicing, making secondary joints, connecting lamps and the general secondary cable work there, pulling services into houses, connecting them.

Q. Was that work which your experience as a first grade lineman qualified you to do? A. No, there were a number, many, in fact a majority of the first class

1780

*William J. Kennedy—For N.L.R.B.—Direct*

linemen were not picked, there were just a few men picked for that type of work.

Q. Did you have to have special training and experience to be able to do that work? A. It required a cer-

S. M. 616

tain amount of preparation, yes, sir.

1781

Q. How did you secure the preparation which enabled you to do that kind of work? A. Mr. Rogers, I believe, had done that type of work, first grade line-man, I referred to before, William Rogers, he had done that type of work on what they call a service truck.

Q. Yes. A. And we were sent with a gang which he was connected with for a couple of days to break in on that type of work.

Q. I see, and you learned about it from him? A. Yes, sir.

Q. Then you went out and did it yourself, is that right? A. Yes, sir.

1782

Q. Now, over what period of time were you engaged in doing that kind of work? A. As I say, on and off when there was cable jobs came in, new cables running in, we would be taken from line work and put on cable work.

Q. Did you do it in 1935? A. Yes, sir.

Q. Did you do it in 1936? A. Yes, sir.

Q. Did you do any—can you tell us when you last did it in relation to the date of your discharge? A. Possibly within a month or so, just before I was discharged.

S. M. 617

Q. And was that done during your regular working hours, or was it overtime work? A. During regular working hours.

*William J. Kennedy—For N.L.R.B.—Direct*

.1783

Q. What was—was there any other work outside of your regular duties that you performed from time to time by special reference? A. I don't believe so, except as a helper, I drove trucks, company trucks, line trucks.

Q. From time to time when necessary? A. Yes, sir.

Q. Well, that was up until when? A. Well, I done it continuously, sometimes when there is trouble and they can't get chauffeurs out they grab the nearest man, regardless of whether he is a lineman, a man in the overhead bureau or what he is, if he has a chauffeur's license he can drive a company truck.

1784

Q. During the period of time that you were employed by the company outside of these special assignments which you received, did you ever receive any particular commendation from any of your supervisors or our superintendent? A. The progressive increases, I think, speak for themselves. However, a month, about a month prior to the time, the day I was discharged, on this Monday night job I mentioned previously, it is customary where a gang finishes a job to let them go right to their homes. The truck had been sent out on this specific Monday. The job was

1785

S. M. 618

started on a Sunday night. It was finished up around Monday noon and the foreman on that job that had been working with us all night was told not to let us go home, to pile us onto the truck and bring us over to the plant.

We were brought into the plant on the truck and there the general supervisor of all the district congratulated this gang, including myself.

Q. Who was that man? A. Mr. John F. Werner congratulated the overhead gang on doing this under-



1786

*William J. Kennedy—For N.L.R.B.—Direct*

ground job in the dispatch and the neatness in the way they had resumed the service down there for the company. We were covered with dirt and dead on our feet. We had worked there all night without any let-up and I was one of the group that was congratulated. We practically worked on every hole there that night.

Q. How many hours did you work there that night?

A. We worked straight through from approximately ten o'clock Sunday night until perhaps ten o'clock Monday morning.

1787

Q. Had you at any time prior to that received any special commendation from any superintendent or supervisor employee of the company? A. Well, that would go back to 1934, when the employees representation plan was established.

Q. What happened then? A. Shortly after this plan

S. M. 619

1788

was formulated by the company, the bureau supervisor, at that time a Mr. Harrison G. Folland, came out on the job after I had been elected representative at large in the overhead bureau, and the foreman called me off a pole and stated that Mr. Folland wanted to see me. I came down off the pole. I took off the hooks and belt, and equipment, and I went over to Mr. Folland, who was sitting in his car.

He got out of the car and he walked a little distance away and then sort of nodded for me to follow him. I followed him up to a corner. We were working on a location in Forest Hills, Long Island, and Mr. Folland went into quite a description about how I had been elected to represent practically the entire overhead bureau, 350 men, and if it was up to him he doubts if he himself would have selected anybody else. I was just the type who could go in there and do a wonderful job for the men who elected me.

*William J. Kennedy—For N.L.R.B.—Direct*

1789

He went on at great length to describe the possibilities of this employee representation plan. In other words, telling me that I was just the man, that I had rapidly went through the first stages of helper, line-man, up to the top of the heap, that I was in a glorious position.

Toward the end, he did drop one in there that made me a little bit suspicious, that it had taken me these years to get to the top of the heap, I was on the top of

S. M. 620

1790

the heap now, as a first class lineman, as a representative representing the employees I had everything to lose and nothing to gain.

Q. Did you question him about that? A. I did, yes, sir.

Q. What did he say? A. I stated that it was my belief and my opinion that this plan had been formulated by the company to prevent a legitimate organization of employees in their own organization, and that there had been a board set up in each region of the United States and there was one in New York City, what was called at that time the Regional Labor Board.

1791

I considered his insinuation a type of coercion and that any further remarks like that he and I should take a walk down and see Mrs. Herrick.

Q. What did he say about that? A. Mr. Folland became very excited and stated that was not his intention, I misinterpreted his remarks, and a few other things that I don't remember offhand.

Q. And that ended that meeting? A. Yes, sir.

Q. Did you have any other conferences or conversations with the supervisory employees regarding the work which you were doing which indicated that they

1792

*William J. Kennedy—For N.L.R.B.—Direct*

S. M. 621

either approved or were commending you for the work which you were doing? A. Not that I know of, not that I can think of offhand, no, sir.

Trial Examiner Gates: We will recess until 1:30.

(Whereupon, a recess was taken at 12:15 o'clock p.m. until 1:30 o'clock p.m.)

1793

—  
AFTERNOON SESSION.

Trial Examiner Gates: Are you ready?

WILLIAM J. KENNEDY, resumed the stand and testified further as follows:

*Direct Examination (continued):*

1794

Q. (By Mr. Moscovitz) Mr. Kennedy, as I recall, this morning you were testifying about your jobs with the company up until the time you were discharged, your rate of pay, your classifications, and so forth. Do you recall that? A. Yes.

Q. When you first went with the company, and I have in mind now the first time, before you resigned, were you a member of any labor organization? A. No, sir.

Q. Had you, before then, been a member of any labor organization? A. Never.

S. M. 622

Q. Now, after you resigned and went back to work the second time, were you a member of any labor organization? A. No.

Q. Had you, in the intervening period, become a member of any labor organization? A. No.

Q. How long after you went to work for the company the second time was it until you became a member of a labor organization? A. November, 1934.

Q. Yes. And what organization was that? A. The Brotherhood of Utility Employees of America.

Q. And that was your first affiliation? A. Yes, in any organization.

Q. Were you an organizer of that local? A. There were no classifications or titles of organizers. It was understood in the Independent organization that every man, every member, would be active as an organizer. In fact, it was the specific understanding that each man in each meeting would attempt to bring in other union members. That was our organization.

Q. Did you work with Mr. Wersing and Mr. Grulich in an endeavor to get membership in the local? A. Yes, sir.

Q. Were you in at the inception of the local? A. No,

S. M. 623

sir.

Q. Did you come in after Mr. Wersing and Mr. Grulich had started their organizational activities? A. Yes, sir.

Q. How long after, do you recall? A. I don't know just when they started their organizational activities.

Q. Yes. A. But I had never even heard of Mr. Wersing or Mr. Grulich until I received a letter from Mr. Wersing.

Q. When was that? A. Which was the early part of November of 1934.

Q. Tell us about it. A. In reply to Mr. Wersing.

Q. What was that letter about? A. I have the letter here.

1756

*William J. Kennedy—For N.L.R.B.—Direct*

S. M. 604

that was the maximum rate for that job.

Q. What was your maximum rate? A. I believe it was around \$28.80 or something like that.

Q. Was that what you were getting? A. Yes, sir.

Q. Yes. A. I was told that within that department, the meter and test department, I could be transferred to the test department if I took an active interest in climbing poles and doing general testing, I could then be made a third grade lineman, a third class lineman. So I applied for that job and received it.

1757

S. M. 605

Q. (By Mr. Moscovitz) Did you get an increase in your rate? A. Yes.

Q. To what? A. I believe at that time it was around \$31, something like that.

Q. Was that the work which you were doing when you changed your employment? A. No, I received another increase shortly after that. I was increased again to the second grade lineman in the same department.

1758

Q. What increase was that? A. \$32, something like that.

Q. Was that the work you were doing when you changed your work? A. When I resigned from the company at that time.

Q. You resigned yourself? A. Yes.

Q. How long were you gone from the company? A. Approximately two years.

Q. Yes— And did you apply for reemployment? A. Yes.

Q. What work did you go back to? A. I went back in the overhead bureau of the distribution department as a first grade lineman helper.

*William J. Kennedy—For N.L.R.B.—Direct*

1759

Q. What area did you work? A. The Flushing Dis-

S. M. 606

trict of the overhead bureau.

Q. What pay did you start at? A. \$29.90.

Q. How long did you continue at that work? A. Just a short time. The supervisor of the district knew I had been a lineman in the test department.

Q. Who was he? A. At that time Mr. William Cam-  
pion.

1760

Q. Yes. A. The duties of a lineman's helper are general. At that time we were driving trucks, helping linemen, general line work.

Q. Yes. A. He evidently knew of my previous employment as a lineman in the test department and I was allowed, although a first class helper, to do line work.

Q. That is quite unusual? A. I would say so, yes, especially a first class lineman. I was rated as a first class helper, but very often did first class lineman's work.

Q. Then you, for a while, were doing first class line work as a first class helper? A. That is correct.

Q. Did it bring with it an increase in pay? A. Not

1761

S. M. 607

immediately, no, sir.

Q. Did you receive an increase in pay at any time while you were acting as a first class helper? A. Only after I was re-rated and advanced to the grade of third class lineman.

Q. What was your next re-rating? A. That is quite difficult to answer. There were so many different grades. There were four grades of linemen; two grades of first



1762

*William J. Kennedy—For N.L.R.B.—Direct*

class linemen, "A" grade and "B" grade, senior and junior; also a second and third grade lineman.

Q. What are the steps? A. You mean right from the very bottom?

Q. Yes. A. Third grade helper; second grade lineman's helper; first grade helper; third class lineman; third grade lineman; second grade lineman, first grade "B" lineman, and first grade lineman.

Q. Then, when you become a first grade lineman, you have reached the top of the scale in that particular work. Is that right? A. Yes.

1763

Q. And when you are a first class helper, to a first class lineman, is the next step first class lineman? A. First class helper.

Q. Yes. A. No, absolutely not.

S. M. 608

Q. That is a third grade lineman, is that right? A. Third grade lineman to second grade lineman.

Q. What was your next step after you worked as a first class helper? What was the next job you had? A. Third class lineman.

1764

Q. Now, when did you get that job, do you recall? A. I believe in 1929.

Q. Did that bring with it an increase in pay? A. Yes.

Q. What amount? A. I believe \$31.20, or \$32.80. They changed so much, with general cuts—

Q. But you received an increase? A. Yes.

Q. What was your next job? A. Second grade lineman.

Q. Did that also bring an increase? A. Yes.

Q. What was your next job? A. First class lineman.

Q. Do you recall when it was that you became a first class lineman? A. I believe in '33 or '34—'34, I believe.

Q. 1934? A. 1934, yes.

S. M. 609

Q. Was that "B"? A. They had changed the old classification. Instead of "A" and "B", they had what we described as the Headache Twins of the time, "Min" and "Max", minimum and maximum rates.

Q. What were you, "Min" or "Max"? A. "Min".

Q. What was your rate then? A. \$40.48, I believe.

Q. How long did you continue at that rate? A. Until I was fired by the company in June of 1936.

Q. Did you receive any reductions at that date? Did you receive any reductions at all during the period of time that elapsed between that date and the date of your discharge? A. Yes, sir.

1766

Q. Did you make any applications for reclassification during that period of time? A. Myself, personally?

Q. Yes. A. No.

Q. What would be the next step after first grade line-man in advancement? A. That is as high as a man can go in the overhead bureau of the distribution department. The next step would be that of a supervisor rec-

S. M. 610

ommending him for transfer to the service bureau, what is known as a trouble shooter.

1767

Q. Have you ever acted in such capacity? A. Not from the service bureau, no, sir, but I had been called out quite frequently if there was trouble on the overhead line of any section in Queens, invariably I was called to put the lines back in service.

Q. Was that work the trouble shooting? A. Yes.

Q. Did you receive extra pay for that? A. No, sir.

Q. Do they pick any first grade linemen to do trouble shooting when the situation requires, or are there special men whom you call on to do that work? A. I would say

1804

*William J. Kennedy—For N.L.R.B.—Direct*

case might be put in the form of having one organizer write whatever they want to put in evidence, in a letter to another organizer, and then

S. M. 626

no one else need have anything to do with it and then they would not need to have any witnesses or even any hearing.

Mr. Moscovitz: Of course, Mr. Examiner, Mr. Kennedy was not an organizer in 1934.

1805

Trial Examiner Gates: Please proceed with the examination, I wish to look over the document.

Mr. Moscovitz: All right.

Q. (By Mr. Moscovitz) At the time you received this letter from Mr. Wersing, which was November 1, 1934, you testified that you had not heard of him before, is that right? A. That's correct.

Q. And that was the first introduction to the name of Wersing, is that right? A. Yes, sir.

Q. Did you acknowledge the order? A. I did.

1806

Q. And did you at any time thereafter speak with Mr. Wersing? A. I did, yes.

Q. Do you recall when it was? A. I met Mr. Wersing at a place previously arranged. We had other correspondence. I replied to his letter and stated I would meet him.

Q. Yes. A. I received a letter back and he named the place and the time where he would be present.

S. M. 627

Q. You did meet him then? A. Yes.

Q. Do you recall when it was? A. Not the exact date, no, sir.

*William J. Kennedy—For N.L.R.B.—Direct*

1807

Q. Do you recall whether it was many days or weeks after the letter of November 1, 1934? A. It was less than weeks—it was perhaps less than a week, within that same week.

Q. Now, at that time you still were not a member of the organization. Is that right? A. No, sir.

Q. Was any arrangement made between Mr. Wersing and yourself for your becoming a member of this organization? A. Yes.

Q. What was that arrangement? A. I wanted to know first what type of an organization it was, who controlled it, if it had a constitution and by-laws, and I asked Mr. Wersing many questions about the organization itself. During the questioning I was very much impressed by the type of man Mr. Wersing was. One thing very much impressed me, that he was a man of the same religious belief as myself. That, I did know, that it was customary for all labor organizations to be classified as radicals.

1808

S. M. 628

During our first conversation, the first day I met Mr. Wersing, he said that evidently from my name I was Catholic, and I said—

1809

Judge Ransom: Objected to. We have had practically every other issue locked in here in the way of hearsay conversation. Now, we have a conversation that these two labor organizers say they once had about each other. But I do object to the present method to lug in the religious issue also.

I move to strike out the entire answer as purely self-serving on behalf of a pair of organizers. Do you know what Mr. Kennedy's re-

1810

*William J. Kennedy—For N.L.R.B.—Direct*

ligion has to do with this case? I submit, I do not.

**Trial Examiner Gates:** The motion to strike out the entire answer is denied. In general, the Board is not interested in the political or religious beliefs of any witness appearing in a hearing. I will ask you to go ahead, without the religious angle, Mr. Kennedy, please.

**The Witness:** All right, sir.

1811

**Judge Ransom:** What I want particularly to have stricken out is all of this tooting of the organizer for another, all this complimentary lauding of one labor organizer about another.

**Trial Examiner Gates:** I move that the answer may stand as it is.

S. M. 629

**Judge Ransom:** Exception.

1812

**Q. (By Mr. Moscovitz)** After you spoke with Mr. Wersing, I understand you entered into some arrangement whereby you became a member of this organization. Right? **A.** That is correct.

**Q.** Did you discuss with Mr. Wersing your attitude regarding trade unionism? **A.** Yes.

**Q.** What was your discussion along that line?

**Judge Ransom:** Objected to as incompetent, not a method of proving any issue taken into this case. Discussions with two members of the organization which brought the charge, say, that they had with each other in November, 1934, is not within any issue here and is not binding in any way upon the respondents. A case cannot be created by such a narration of proposed conversation before the taking effect of the Wagner Act.

*William J. Kennedy—For N.L.R.B.—Direct*

1813

Trial Examiner Gates: The objection is overruled, but I suggest that there be a mark of limitation on this line of testimony.

A. Well, briefly, Mr. Wersing impressed me very much as a type of man that I would go along with in a labor organization—

Judge Ransom: I move to strike the present estimate of Mr. Wersing out. They both get the same salary and both work for the same organization.

1814

S. M. 630

Trial Examiner Gates: Motion to strike granted.

Q. (By Mr. Moscovitz) Outside of the fact that we agree that Mr. Wersing is a good gentleman, will you tell me whether or not you had with Mr. Wersing at that time a discussion regarding your desire or absence or lack of desire to become affiliated with his organization? A. I specifically stated that I would become a member of the organization which he represented, which we were discussing.

1815

Q. Yes. And it was then that you became a member on the date that you have already testified about. Is that right? A. Not at that date, no, sir.

Q. When did you become a member of it? A. I believe November 17th was the day I paid the initiation fee.

Q. 1934? A. Yes, sir.

Q. And you entered as a regular member, is that right? A. That's correct.

Q. And were you at that time a member of the plan? A. Yes, sir, I was a representative-at-large of the over-head bureau.



1816

*William J. Kennedy—For N.L.R.B.—Direct*

Q. How long have you been such a representative?

A. From the formation of the plan in May, I believe, 1934.

S. M. 631

Q. Yes. You were elected by the men in your bureau? A. Elected by the men in the whole overhead bureau, yes, sir.

1817

Q. How long did you represent them in that capacity? A. Until the end of the term, which was the end of May, I believe, of the following year.

Q. Well, how did you—from what time? A. From June 1st, I believe, of 1934, until the end of May, 1935.

Q. Being a representative-at-large at the time you were approached by Mr. Wersing, what was the reason for your being—for your becoming a member of a different labor organization?

1818

Judge Ransom: I object to that as incompetent and not in any way binding upon the respondent, or under any issue here. The evidence is uncontradicted that many members of the Brotherhood continuously participated and voted and ran for office as they had a right to do under the system by which the employees chose their representatives.

Trial Examiner Gates: You may answer.

The Witness: At a meeting of the entire group of representatives, representing all the employees in the New York & Queens Electric Light & Power Company, held on the company premises at which is known as Central Service Station in Flushing, one of the company's main offices and headquarters, I opposed the plan itself as the method of collective bargaining. This

S. M. 632

was before my affiliation with the Independent organization.

This meeting had been called by Mr. James Mannix, at that time chairman of the general council representing all employees in the company. At this meeting Mr. Mannix passed to each representative, or had given to them every one of the requests which had been presented by the different bureau departments and members of the general council to the management. These included some forty in number and we were given them to study, both the request, itself, and the replies from the management.

1820

It came out at this meeting that Mr. Mannix, himself, the chairman of the general council, mentioned it in a fashion that the only request which had been granted out of the whole forty was that seats were put on the office chairs in one of the offices. At that time I figured it was a good point to bring out. My attitude towards the plan itself, as to what it could possibly get for the employees as a method of collective bargaining; there was considerable friction at this meeting, but nothing was accomplished.

1821

At that time some of them accused me, at least tried to accuse me, of being a member of some other organization and I was not at the time.

Q. (By Mr. Moscovitz) How long after you became a member of this organization did you become an

S. M. 633

officer? A. Did I become an officer of the Independent organization?

1822

*William J. Kennedy—For N.L.R.B.—Direct*

Q. Yes. A. After the local had received its charter from the national organization. In February, 1935, we held an election for our local in Queens, Queens Local 103, at which meeting I was elected general manager of the local.

Q. Yes, and up until that time you were just a regular member, is that right? A. That's right.

Q. And were you, during that period of time, engaged in organizational activity for the utility employees? A. Yes, sir.

1823

Q. And were you also during that period of time a member of the employee representation plan? A. That's correct.

Q. Did you continue your activities in the employee representation plan while you were also engaged in your brotherhood of utility employee activities? A. After I became affiliated with the Independent organization there was considerable discussion between myself and the men who had elected me as their representative in the overhead bureau, both, when we started, before we started to work in the morning, during lunch hour, after working hours, at the homes of the different employees, so that it appeared, it appears as though

1824

S. M. 634

I was trying to ride two horses going different directions.

That was the statement made by some of the men, that the best thing I could do, and I thought myself that I should resign as the representative.

Q. Did you? A. I attempted to.

Q. How did you make that attempt? A. Well, verbally, by letter through the company messenger service and through the United States Mail.

Q. When? A. At different times.

Q. Well, do you recall when you first did it? A. No, I don't.

Q. Well, do you recall any one of the times when you did it as to the date? A. These were on numerous occasions, they eventually wound up in special meetings being called, one I insisted upon by the chairman of our council, Mr. William Fruin.

Q. When was that? A. That, I believe, was early in 1935, that was verbal.

Q. Yes, go ahead. A. I approached Mr. Fruin, who worked in the same district as myself, and stated that I requested that he go down with me. 1826

S. M. 635

Q. Was he a lineman, too? A. No, he is a clerk, I believe, in the office. I requested that he go with me before Mr. Folan.

Q. Who is Mr. Folan? A. At that time supervisor at the overhead bureau, and Mr. Fruin wanted to know what it was all about and I told him in part, that I was going to go before Mr. Folan to have a little understanding, and I requested him to be there.

Q. Why did you want to go to Mr. Folan? A. Mr. Folan was the man that I would go to, he is the bureau supervisor, to resign as bureau representative. 1827

Q. Well, would you have to resign through Mr. Folan, the supervisor? A. Not necessarily.

Q. Had there developed a relationship between yourself and Mr. Folan in this employee representation plan work? A. Yes, sir.

Q. What was that relationship? A. Any bureau grievance was supposed to be adjusted, if possible, between representatives in the bureau and the bureau head, who was Mr. Folan.

1828

*William J. Kennedy—For N.L.R.B.—Direct*

Q. Well, did you go to see Mr. Folan? A. I did, accompanied by Mr. Fruin.

Q. When was that, do you recall? A. Early, as I say, in 1935, I can't be more specific.

S. M. 636

1829

Q. Tell us what took place there. A. I told Mr. Folan I had become affiliated with an independent organization, as such felt that it was embarrassing to be also a member of the employees representation plan, and I told him that I wanted to resign and Mr. Fruin was present at that time.

Mr. Folan requested at the time that I retain my connection with a representative of the bureau council, that would have a bad effect upon the employees in the overhead bureau if a man who was a representative in there attempted to, as he put it, throw the plan overboard.

1830.

Mr. Folan seemed to be, he was, in fact, visibly affected. He got up from his desk, put out his hand and took me by the hand and said that in all his years of connections, direct connections, with linemen, having been a lineman himself, for the first time in his life he was glad to shake the hand of a man who was sincere and honest enough to come to him and explain the action he had taken, that while he did not exactly agree that I had made the right step, he honored and respected me for so doing.

Judge Ransom: I move to strike out the witness's account of what a man now dead said in praise of the witness. If the witness will tell us some of his conversations with living men, it might be more probative.

Trial Examiner Gates: It may stand.

Judge Ransom: Exception.



S. M. 637

Q. (By Mr. Moscovitz) Was Mr. Folan your immediate boss? A. Yes, he was the Bureau supervisor.

Q. Had charge of all the men. Is that it? A. Correct.

Q. Did he have any conversation with you at that time about the independent Utility Employees organization? A. Not that I recall, no, sir.

Q. Was it as a result of that conversation that you continued your membership in the plan? A. Yes.

Q. Yes. But, did you continue being as active as you had been prior to that in the plan? A. No, sir.

1832

Q. Did you continue in any activity under the plan, or did you just retain your membership and your official position? A. There was some further activity. After the Flushing District had been transferred and merged with the Elmhurst District, there were many men in Elmhurst who I did not know. Most of them, however, had been told one way or the other about my action in becoming affiliated with the independent organization, and most of them had asked questions about it.

Most of them were strangers to me but they would approach me and ask me why and all about it, so to clarify the situation and bring it to some sort of a head, a petition was circulated among the men in the overhead bureau in the three districts, at that time, Flushing,

1833

S. M. 638

Elmhurst and Jamaica. That was according to the constitution of the employees representation plan, and it specifically stated in the constitution that a meeting of all the members in a bureau can be called by sufficient signatures on the petition, accompanied by ten percent of the membership in any bureau. That petition was circulated, presented to Mr. Folan, according to the con-



1834

*William J. Kennedy—For N.L.R.B.—Direct*

stitution. Mr. Folan first attempted to prevent the meeting.

Judge Ransom: Move to strike out the statement that Mr. Folan did so and so.

You are aware that Mr. Folan is dead, aren't you?

The Witness: Yes, I am.

Judge Ransom: I assumed you did.

Trial Examiner Gates: It may stand.

Judge Ransom: Exception.

1835

A. There was considerable discussion about the holding of this meeting. Mr. Folan pointed out the expense that would be entailed in conducting such a meeting, calling in some 350 overhead men an hour ahead of time. I also pointed out at that time further that the constitution had provisions in it, in the same constitution of the Employees Representation Plan, that reasonable and necessary expenses in connection with the plan itself would be borne by the management. The ultimate result was that instead of one meeting there were two meetings. At the time of the meetings, Flushing had been

1836

S. M. 639

merged with Elmhurst and one meeting was held there. Another meeting was held the following day in the Jamaica District for the men in the other Jamaica District.

Judge Ransom: Move to strike out the answer on the ground, first, that the witness is testifying to matters which took place long before the enactment of the Wagner Act; in the second place, as to matters not within any issues tendered by the complaint; in the third place, it is merely the witness' version of a purported conversation

*William J. Kennedy—For N.L.R.B.—Direct*

1837

with a man whom the witness now knows is not living and able to contradict him.

Trial Examiner Gates: Motion to strike is denied.

Judge Ransom: Exception.

Q. (By Mr. Moscovitz) Continue. A. The first meeting took place in the Elmhurst district, representing a majority of the men in the overhead bureau. At this meeting the chairman of the council, Mr. Fruen, acted as chairman, conducted the meeting. It became apparent to me within a short time after the meeting was opened, that Mr. Fruen was going to use the whole hour of the meeting of the employees in the district—

1838

Judge Ransom: It—I move to strike out what became apparent to this witness. I submit that evidence cannot be created in any such way. If it could be there would be absolutely no limits to what could be brought in to this hearing. It is

S. M. 640

purely hearsay, conjecture, of this witness, argumentative.

1839

Trial Examiner Gates: Objection denied. It is important to this hearing to know what was said.

Q. (By Mr. Moscovitz) Tell us what was said. A. Well, I broke in on Mr. Fruen and did succeed in getting the floor and attempted to point out to the employees that we had gained nothing as far as any collective bargaining to be gone into with the management.

Judge Ransom: I object to that as purely self-serving, ante dating the Wagner Act and not related to any issues tendered by this complaint.

1798

*William J. Kennedy—For N.L.R.B.—Direct*

Q. Do you? A. Yes, sir.

Q. Do you recall what was contained in the letter?  
A. That Mr. Wersing had learned that I had discovered that the company or, rather, the employees' representation plan, was a futile method of attempting any sincere and genuine collective bargaining.

Judge Ransom: I move to strike out the argument of this labor organizer as not responsive or competent, he can't testify what Mr. Wersing

1799

S. M. 624

speculated about. Mr. Wersing did his own speculating.

Trial Examiner Gates: It may stand.

Judge Ransom: Exception.

Q. (By Mr. Moscovitz) Tell us what the purpose of the letter was, that is, as you read it.

Judge Ransom: I object to that, the letter speaks for itself.

Mr. Moscovitz: All right, I offer then, Mr. Examiner, the letter.

1800

Judge Ransom: I object to it as incompetent, not within any issues here, the complaint makes no allegation or undertakes to state no cause of action as to the employees representation plan. Further, the letter is purely self-serving, a letter from one labor organizer to another, evidence cannot be created or manufactured in that way for the purposes of quasi-judicial proceedings.

I make also the point, in addition to not being within any issue tendered by the complaint, it long antedates the taking effect of the National Labor Relations Act and is not within any issue

*William J. Kennedy—For N.L.R.B.—Direct*

1801

here, relates purely to matters outside of the jurisdiction of this Board.

Trial Examiner Gates: Do you wish to make any further statement, Mr. Moscovitz?

Mr. Moscovitz: Well, this letter, Mr. Examiner, simply points to a background in this case

S. M. 625

of the manner in which Mr. Kennedy was introduced to Mr. Wersing, and establishes the first step that Mr. Kennedy took in regard to the organization that he was a member of at the time of his discharge.

1802

I am of the opinion that it should be accepted as a part of the history of the activity of this witness. The whole question as far as this person, being whether or not he was discharged because of his union membership and activity, and I don't think the fact of his activity precedes the enactment of the National Labor Relations Act and prohibits the introduction of this document—

Trial Examiner Gates: Does it serve any—

Mr. Moscovitz: Well, there is nothing probative about this, I am not trying to establish anything that goes to the merits, outside of a background that I think important in this case so that the Board may be in a position to know just what this person's organizational activity has been from the time he started until he was discharged.

1803

Trial Examiner Gates: Let it be marked as an exhibit.

Judge Ransom: May I point out to your Honor that if this method is proper it would be much easier, and in fact it would avoid the attendance of any of us here if the Government's entire

1846

*William J. Kennedy—For N.L.R.B.—Direct*

and I did have dealings with Mr. Folan and conversations and meetings with him afterwards.

Q. And those—are those conversations about which you have not yet testified? A. That is correct.

Q. Well, tell us when it was that you had your first conversation with Mr. Folan about your affiliation with the independent organization?

Judge Ransom: Objected to—well, let me fix the date, if he will. I do not object to the fixing of the date.

1847

A. I cannot fix the date. If it was the latter part of '34 or '35 that most of this took place. They were very busy days, and I kept no records of time or place.

Q. And was it after you had become an officer of the independent union? A. I believe so. My letter to Mr. Folan, I believe, would prove that.

Q. Now, aside from the conversation that you had with Mr. Folan, as a result of your having sent the letter to him, was there any other conversation which you had? A. The first time at which Mr. Fruen went down with me, it was all verbal. Shortly after that, I believe, after I became general manager of the Queens Local I sent a letter through the company messenger

1848

S. M. 644

service to Mr. Folan.

Q. And what was that letter about? A. That I had been elected an official of the Queens Local, and did not feel that I could continue longer as a representative of the employee representation plan.

Q. And is that despite his previous request? A. That's correct.

Q. Did you receive a response? A. Mr. Folan sent for me.



*William J. Kennedy—For N.L.R.B.—Direct*

1849

Q. When did you see him? A. The same day that he sent for me, I believe the day after I sent the letter.

Q. And what was the conversation you had with him?

Judge Ransom: I object to that as incompetent, this conversation is purely self-serving and it is an effort for the witness to testify in his own behalf to a conversation with a person now deceased, and it wholly ante dates the Wagner Act and not within any issue tendered by the complaint.

1850

Trial Examiner Gates: You may answer.

Judge Ransom: Exception.

The Witness: Practically the same conversation as the first meeting with this exception, the conversation was the same as the first meeting, Mr. Folan advised me not to resign from the company union but to stick it out until the end of the term. I agreed that day to continue as a representative. However, I received a phone call, I

S. M. 645

believe it was a phone call, that same night from one of the other representatives. I regret to have to bring this part out.

1851

Judge Ransom: I object to it as wholly incompetent and self-serving, not within any issue, evidence can't be created by the present narration of conversation to which the company was in no way a party. The witness can easily be saved embarrassment.

Trial Examiner Gates: Perhaps it will be easier to rule if there is a question before the witness.



1852

*William J. Kennedy—For N.L.R.B.—Direct*

Q. (By Mr. Moscovitz) From whom did you receive a telephone call? A. Mr. John Young.

Q. Who is he? A. He was a bureau of council representative from the Elmhurst district.

Q. What was his job with the company? A. First grade lineman.

Q. And did you receive this telephone conversation after you had spoken with Mr. Folan? A. Yes, the evening of the same day.

1853

Q. And this was either in the latter part of 1934 or the first part of 1935? A. That's correct.

Q. What was the conversation with the representative?

S. M. 646

Judge Ransom: I object to that on the grounds already stated.

Trial Examiner Gates: You may answer.

Judge Ransom: Exception.

1854

The Witness: Mr. Young's statement to me was that he had heard that I had gone to Mr. Folan and on this specific afternoon requesting that I be allowed to resign as representative of the Employee Representation Plan. He had also heard that Mr. Folan convinced me that I should not resign because of the effect it would have upon the rest of the employees, but Mr. Folan had left me after getting this assurance that I would not resign, had gone to Elmhurst, waited for the line truck on which Mr. Young was working that date, to come into the yard and had then called Mr. Young off the truck and told him that the best thing he and the best thing the representatives could do was to get rid of that radical.

*William J. Kennedy—For N.L.R.B.—Direct*

1855

Kennedy, that ~~was~~ Young's idea that I was not allowed to resign that it would be a feather in somebody's cap if I could be kicked out rather than be allowed to resign.

Judge Ransom: I move to strike out the answer as not within any issue here, there is no allegation in the complaint as to the Employees Representation Plan, no claim that anything took place by reason of it. This all antedates the Wagner Act. This is about third degree hearsay, ordinarily we have been taking only second degree.

1856

S. M. 647

Trial Examiner Gates: How much of your testimony there covers direct statements to you by Mr. Young?

The Witness: Practically all of it.

Judge Ransom: Well—

Trial Examiner Gates: What did not?

The Witness: I believe all of it.

Trial Examiner Gates: It may stand.

Judge Ransom: Exception.

1857

Q. (By Mr. Moscovitz) That was the extent of the conversation with Mr. Young? A. That's correct.

Q. What did you do then? A. I contacted Mr. Fruen, the chairman of the bureau council.

Q. The same night? A. The following day, the following morning around eight o'clock in the morning I suggested or demanded that he call a special meeting of the bureau council to discuss my conversation with Mr. Folan and Mr. Folan's attitude after the conversation.

Q. Was such a meeting called? A. It was.

Q. Where? A. In a room in the same central service station at Flushing.

1856

*William J. Kennedy—For N.L.R.B.—Direct*

Q. Now, do you recall when that meeting was called?  
A. No, sir.

S. M. 648

Q. Would you say that it was in 1935? A. Yes, sir.

Q. The early part? A. Yes, sir, it must have been, we were still representatives?

Q. Still before you were an officer of the Utility Employees? A. No, I believe at that time I had been elected general manager of the local.

1859

Q. So that it would be after February, 1935? A. I believe so, yes.

Q. And were the men in attendance at the meeting?  
A. Yes, sir.

Q. What took place? A. The meeting opened by different representatives presenting some minor grievances for adjustment by Mr. Folan who represented the management and he finally got around to the situation that I had insisted the meeting be called for.

Q. Was Mr. Folan there? A. He was.

1860

Q. Yes, go ahead. A. Mr. Folan and two representatives from the Jamaica district, two representatives from the Elmhurst district, and two representatives from the Flushing district.

Q. Were there any other representatives of management at the meeting in addition to Mr. Folan? A. No, sir.

S. M. 649

Q. All right, will you name some of the other persons who were in attendance at that meeting? A. Mr. Fruen of Flushing, as chairman of the Bureau of Council; Mr. William Righison, secretary of the council from the Jamaica district; Mr. Frank Casey represented the

*William J. Kennedy—For N.L.R.B.—Direct*

1861

overhead bureau of the Jamaica District; Mr. John Young, representative from the Elmhurst district; Mr. Albert Martini of the Elmhurst district and myself from Flushing.

Q. Yes, now tell us what took place in regard to your particular problem? A. I—

Judge Ransom: I object to that on the grounds already stated.

Trial Examiner Gates: He may answer.

Judge Ransom: Exception.

The Witness: I asked Mr. Folan if he remembered our conversation of the previous date when I offered to resign. He said that he did.

1862

Q. (By Mr. Moscovitz) And was this in the presence of all these men whom you have already listed? A. Yes, sir.

Judge Ransom: Can you fix the date?

The Witness: No, I could not, I kept no record of it, see.

Q. (By Mr. Moscovitz) I understood that it was after February, 1935? A. I believe it was after February.

1863

S. M. 650

Judge Ransom: But before May or before June?

The Witness: I have no definite dates on it.

Q. (By Mr. Moscovitz) Go ahead. A. Mr. Folan stated that he did remember the conversation. I asked him if he remembered anything that happened later that afternoon, and he said, "No, not in particular."

And I said, "Do you recollect that I was quite angry about this whole affair", and I said, "Do you remember stopping a truck in Elmhurst and talking to another man

1864

William J. Kennedy—For N.L.R.B.—Direct

and stating that they should get rid of that radical, Kennedy," and he said, no, that he did not.

Mr. Young was in rather a spot at that time but he did not hesitate, he got right up on his feet and he stated, "You certainly did, you said it to me."

So I said to Mr. Folan, "Well, that being the situation and the way the case stands at the present time, I absolutely refuse to resign. I decline to resign, and I will stick this thing out to the finish regardless of statements made by anybody that I am carrying water on both shoulders or riding horses going in different directions.

1865

Q. And that was the extent of that? A. Mr. Folan answered by stating that he represented the management and what else could he do under the circumstances.

S. M. 651

Q. Did he make any further statement? A. Not that I can remember, no, sir.

Q. Did you attend any special meetings or regular meetings after that? A. There were special meetings called, one in particular, by the management, at the  
1866 time, I believe, the officials of the company.

Q. And did you attend that meeting? A. I did.

Q. When was that? A. That also was in '35, I don't know just what time.

Q. Did you have—do you have any notes that would help you refresh your recollection? A. No, I just try to get down months, we never kept any track, we were so busy day and night that we didn't keep no record at all of anything.

Q. And you say you met with the officials of the company; do you mean officers of the company? A. That is correct.

*William J. Kennedy—For N.L.R.B.—Direct*

1867

Q. Where was that meeting? A. This also took place in the central service station in Flushing.

Q. And who were the officers of the company? A. If I remember correctly, Mr. Gordon, treasurer of the company, Mr. Porter, Mr. Waterhouse.

S. M. 652

Q. Who is Mr. Porter? A. I am not sure of his title, I believe it is assistant to the president or something like that.

Q. Who is Mr. Waterhouse? A. I believe his title is personnel manager, I am not sure of any of these titles.

1868

Q. Were they from your company? A. Yes, sir.

Q. And how many men attended? A. Employees?

Q. Yes. A. The same six representatives previously mentioned and also Mr. James Mannix, the former chairman of the general council.

Q. Who gave you notice of this meeting? A. Mr. Fruen, chairman of our bureau of council.

Q. Did the notice specify the purpose of the meeting? A. My notice was verbal.

Q. What was the notice? A. That we were to meet the management at a certain time on a certain day.

1869

Q. What was the purpose of the meeting? A. I was not exactly positive myself.

Q. Well, after you got there? A. It became—

Q. What did you find the purpose of the meeting was? A. Mr. Gordon opened up the meeting by stating

S. M. 653

that the president of the company was unable to be there and that in his place he would act as chairman and would represent the president and he started off



1870

*William J. Kennedy—For N.L.R.B.—Direct*

1871

with a sort of a speech about the company, was quite proud of the type of men they had in the overhead bureau, that they were always considered the most loyal employees and also the most well paid, and he could not understand this sudden dissatisfaction in the overhead bureau itself, that the only possible answer to it would be that there were some agitation or agitators, radicals, and about that time I broke in. He had talked at some length by that time and stated that he had an idea—I stated to him that I had an idea who he was talking about and who he was talking to and I felt that I was the man, at least one of the men, having been the most active and his remarks were addressed particularly to me, and I resented it, I admitted being an agitator, if he wished to call it that, and an organizer, if he wished to call it that, but I resented being called a radical or anything like that.

I again pointed out something that was objected to before also, my membership as an official of the American Legion at the time and other things I mentioned.

1872

Q. (By Mr. Moscovitz) And was the reference to dissatisfaction made more specific by Mr. Gordon or his associates? A. Not that I remember.

S. M. 654

Q. Did he refer to the Brotherhood of Utility Employees as such? A. Not by name, no, sir.

Q. Simply to the agitation that was going on, is that correct? A. That is correct.

Q. Did you make any further statement? A. Not to Mr. Gordon or not along those lines that I remember.

Q. Did Mr. Gordon have anything further to say after you had expressed yourself? A. Except for one statement that he said he didn't exactly mean it in just the way he expressed it.

Q. Did any of his associates have anything to say at the meeting? A. Not along those lines, no.

Q. Did that conclude the meeting insofar as organizational activity discussion was concerned? A. Yes. At that time the meeting was apparently ready to break up. Everybody was on their feet about ready to leave and I continued to sit there. I didn't feel exactly quite right about the whole situation, the way it had taken place, and certain things that were mentioned.

Q. What things are you referring to? A. Well, Mr. Gordon's statements, in particular.

1874

Q. Yes. A. While I sat there, one of the officials finally, if I am not mistaken, Mr. Waterhouse, came over

S. M. 655

and said, "What did you think of the meeting?" Well, the frame of mind I was in, I said, "What meeting?"

He said, "Well, the meeting that just took place here."

I said, "As far as I am concerned there wasn't any meeting."

He said, "What do you mean by that?"

And I said, "This is about the most important meeting as far as the overhead bureau is concerned that has taken place, that we had definitely contacted and met with the officials of the company, but still, in spite of this very important meeting, we had nothing to take back to the men who had elected us. There was no word of any kind, no collective bargaining, nothing had been discussed."

1875

And he shrugged his shoulders and walked away.

Q. Did you then leave? A. I believe that was the end of that meeting, yes.

Q. Did you report back to your membership on the meeting? A. Yes.

1876

*William J. Kennedy—For N.L.R.B.—Direct*

Q. At a regular meeting? A. Yes.

Q. Told them what took place? A. Yes.

Q. Do you recall when that was? A. No, I don't.

S. M. 656

Q. Would you say that this meeting with Mr. Waterhouse and the other gentlemen took place some weeks or months after February, 1935? A. It may have been some weeks or months after February, 1935.

1877

Q. Would you say it was the middle or prior to the end of 1935? A. It would be between February and May.

Q. Between February and May? A. Yes.

Q. Were there any special meetings that you attended up until the time that you disassociated yourself from the plan?

Judge Ransom: He said his term expired.

Q. (By Mr. Moscovitz) Or after your term expired? A. With the plan itself?

Q. Yes. A. No.

1878

Q. All right. Now, as I understand it, at the same time you were very active in your independent union activities? A. That is correct.

Q. At the same time that this meeting was going on with Mr. Waterhouse, you were vitally interested in the affairs of your independent organization, is that right? A. Very much so, yes, sir.

Q. And you had been, during the period immediately preceding that meeting and the period after that meet-

S. M. 657

ing, actively engaged in securing membership, is that right? A. Yes.

*William J. Kennedy—For N.L.R.B.—Direct*

1879.

Q. And had you succeeded in securing membership?

A. I would say yes, very much so.

Q. While you were engaged in this activity, did other supervisory employees discuss with you the work that you were doing at any time? A. As far as the independent organization?

Q. Yes. A. It would be purely hearsay.

Q. Well, I mean persons who spoke with you directly? A. No.

Q. After your period, or connection, with the plan expired, you ran for no other office. Is that right? 1880  
A. In the Representation Plan?

Q. Yes. A. No. We were, however, renominated. We declined the nomination. We were elected and we refused to be elected.

Q. When you say "we" were renominated, do you refer to the six gentlemen about whom you have been testifying? A. No, five of the six were then members of the Independent organization.

Q. Who were they? A. All by the chairman.

S. M. 658

Q. That is Mr.—William— A. William Fruen. 1881

Q. Yes. A. Mr. Fruen was a clerical man. The rest were all linemen or chauffeurs, the majority linemen.

Q. You say that all of you refused to accept the nomination? A. Our local, at a meeting prior to the nominations for the coming year, for the employees representation plan, a motion was made that none of us accept the nomination, have anything further to do with the plan.

Q. You followed that motion? A. That is correct.

Judge Ransom: Will you give those names, please?

1840

*William J. Kennedy—For N.L.R.B.—Direct*

Trial Examiner Gates: Motion to strike denied.

Judge Ransom: Exception.

A. I also stated that my idea of collective bargaining could only be indulged in successfully by building an independent organization that was controlled by the employees themselves and not dominated or financed by the management.

1841

Q. (By Mr. Moscovitz) And was that the final statement made by yourself at that meeting? A. That is correct.

Q. Did you make any other similar statement at any other meetings on the same day? A. There were questions from the Employees themselves, both through myself and to Mr. Fruen.

S. M. 641

Q. Were they representatives of management, officials of the company, were they in attendance at that meeting? A. Not in the room itself.

1842

Q. Although the meeting was held on company property. Is that right? A. That is correct.

Q. Did you attend the second meeting? A. Yes.

Q. Where was that? A. That took place the following day at the Jamaica district of the overhead bureau of the distribution department.

Q. Was that also in the offices of the company? A. That is correct.

Q. And who presided at that meeting? A. The chairman of the same bureau councils.

Q. Did you make a similar statement at that meeting? A. Practically the same, yes.

Q. Were any representatives of the company or officials of the company in attendance at that meeting? A. Not to my knowledge.



*William J. Kennedy—For N.L.R.B.—Direct*

1843

Q. Were there any foremen or supervisors there?  
A. Were there—there were a couple of foremen there when the meeting started and one of the other representatives noted him there and requested the chairman to ask him to leave.

S. M. 642

Q. Did he leave? A. Yes, they left.

Q. What was the date of the second meeting? A. It was immediately after the date of the Elmhurst meeting.

1844

Q. Do you have the date of that meeting? A. No, sir.

Q. Do you say some time in February? A. Early in 1935.

Q. Did you attend any employee representation plan meetings after that, or engage in any employee representation plan activities after that? A. The bureau council had meetings approximately once a month.

Q. And you attended all of those meetings? A. Yes.

Q. What was the last meeting of the bureau of council that you attended? A. The last one I attended, I believe, was the last month we had election of officers and representatives.

1845

Q. That was when? A. May 10, 1935.

Q. After you became general manager of the local of the Utility Employees Union, did you have conversations with any supervisory employees of the company about your new affiliation? A. I do not like, any more than Mr. Ransom or anybody else, to be continually bringing in Mr. Folan. I realize the fact that he can-

S. M. 643

not defend himself, but he being my bureau head, he is the only man I could possibly have any dealings with,



1888

*William J. Kennedy—For N.L.R.B.—Direct*

Q. Did you serve as president of the national organization without pay? A. Every man in our independent organization served without pay. There were no salaries.

Q. Did that also apply to the business manager? A. Yes.

1889

Q. Was it reported, to your knowledge, to the company, that you were elected national president of this organization? A. Not directly to my knowledge. I believe it was quite evident. It was in the public press, in all our bulletins, different periodicals that were circulated by the organization.

Q. What public press are you referring to? A. The general newspapers, Queens and New York City.

Q. I see. And were there any statements made to you by any of your supervisory employees after you were elected, about your new job in the organization? A. No, sir.

Q. Did you, after becoming national president, have occasion to take any questions up for your organization with your company? A. Not until three officers of the Queens local were fired.

1890

S. M. 662

Q. Are you referring to Mr. Wersing, Mr. Wagner and Mr. Grulich? A. Correct.

Q. That was then in November, 1935, is that right? A. Correct.

Q. At the time you took up those cases you were no longer acting as general manager of the Queens local, is that right? A. After having been elected into the national office, I resigned my position as general manager with the local. Most of my time was spent then in the national office.

*William J. Kennedy—For N.L.R.B.—Direct*

1891

Q. Did you serve on a committee for the purpose of taking these cases up with management; or did you serve in an individual capacity? A. I served as chairman of the emergency committee which was established the day or the day following the discharge of these men.

Q. Who was the organizing—who was on the emergency committee? A. The first committee was a sub-committee of the executive committee of the local, consisting of four men.

Q. Who were they? A. Myself as chairman, Mr. John Young, a first class lineman from Elmhurst; and Mr. John Emler, another first class lineman from Elmhurst, and Mr. Jack Shulter, I believe his position with the company was that of meter tester.

1892

Q. Now, did you spend a great deal of time in this organizational work? A. The independent Brotherhood

S. M. 663

of Utility Engineers?

Q. Yes. A. Yes.

Q. And was it done during or after working hours?

A. With the exception of meetings that I described previously, the one in Elmhurst and the one in Jamaica, all of them, with those exceptions, were before eight o'clock in the morning when we started to work; during lunch hour, after work, and practically every evening, going to different homes.

1893

Q. Was your committee called an emergency committee? A. The night it was placed in operation, yes. It was a sub-committee of the emergency council of the local. It was called an emergency committee.

Q. Was it appointed by the membership? A. It was appointed by the executive council of the local that evening.

1894

*William J. Kennedy—For N.L.R.B.—Direct*

Q. With whom in management did you get in touch for the purpose of taking these cases up? A. A letter was dispatched, I believe, to the president of the company, Mr. Frank W. Smith, I believe, requesting an interview to discuss the discharge of three officers.

Q. Was the letter signed by yourself? A. Yes.

Q. And did you obtain such an interview? A. I believe the reply was by the telephone which came into our

S. M. 664

1895

local. No, I received a letter from Mr. Smith stating that the procedure he would suggest would be that the committee contact Mr. Dean of New York and Queens Company to discuss the situation.

Q. Did you contact Mr. Dean? A. The committee did, yes.

Q. Did the committee meet with Mr. Dean? A. Yes.

Q. Do you recall when that was? A. The latter part of November, or the early part of December, 1935.

Q. Did you meet him at his office? A. Yes.

Q. Tell us what took place at that meeting? A. The committee, consisting of Mr.—

1896

Q. May I ask first whether or not there were any other representatives of management in attendance in addition to Mr. Dean? A. Mr. Waterhouse was there at the time.

Q. Now tell us. A. The committee consisting of Mr. Emler, Mr. Young, Mr. Shulter and myself.

Q. Were you chairman? A. Yes, sir.

Q. All right. A. Yes.

S. M. 665

And as such acted as spokesman for the committee. I stated to Mr. Dean that we were there to discuss the discharge of the three officers of our local.

*William J. Kennedy—For N.L.R.B.—Direct*

1897

Mr. Dean stated that he did not know anything about it, while he did know that two of them were definitely members of the local, it had no bearing on the case and why didn't I mention the other three men.

Well, I didn't know anything about any other three men.

Mr. Dean stated that six men were being laid off, laid off or discharged, I forget just which word he used, and he said that they were officers of the local discharged, that was merely a coincidence, so I stated to Mr. Dean that six men are being discharged, 50 percent of the six men who are being discharged constitute 100 percent of the officials of the local and I would have a considerably difficult time explaining to the members of the local that it was merely a coincidence.

1898

There was further discussion about it and I stated to Mr. Dean that the situation was becoming extremely critical and that only one man could stop it. He waited and I told him that that man was himself.

So he more or less waived, and said that there was nothing that he could do about it, and I don't believe anything else happened.

Q. Did he tell you who the other three men were that were discharged, or laid off? A. No, sir.

1899

S. M. 666

Q. Do you know? A. He did not state that the company's reason—that is, he then stated the company's reasons were that the company was discontinuing a bureau, they were making room for married men by firing single men or laying off single men.

Q. Did he tell you what bureau was being discontinued? A. No, sir.

Q. Do you know who these other three persons were that were discharged or laid off, with Wersing, Grulich and Wagner? A. No, sir.

1900

*William J. Kennedy—For N.L.R.B.—Direct*

Q. Do you know whether or not—I will withdraw that. Did you have any discussion with him regarding the seniority rights of these men? A. Yes, I did.

Q. And what was that discussion? A. Mr. Dean's statement was that seniority rights did not exist, the company always did and always would retain the right to hire and fire any employee at any time.

1901

Q. Now, you testified before that this meeting was either the latter part of November or the first part of December; you don't mean, do you, that it was the latter part of November, the discharge? A. The discharge took place, I believe, on the 20th.

S. M. 667

Q. So that this meeting would be the first part of December? A. I believe so, yes, sir.

1902

Q. All right, did you point out to Mr. Dean what you were going to do about the situation in view of the fact that it had become so critical? A. I did. I stated that we were there as a committee representing the members of our organization, there was nothing else for me to do but to return to the organization and submit our report about what had taken place in the meeting with himself.

Q. Was there any reference made to the possibility of a strike being called? A. I believe so.

Q. Was it made by you or by Mr. Dean? A. We started to walk out, when we were, when he saw that nothing could be accomplished there, when we saw it also, we were half way to the door and the other men preceding myself and Mr. Dean said, "Just a moment."

And I turned around and Mr. Dean said he hoped there would be no rash acts. I believe those were the exact words he used. I stated that on a couple of occasions within the last couple of days there were

*William J. Kennedy—For N.L.R.B.—Direct*

1903

certain statements in the newspapers mentioning sabotage, destruction of property and other descriptive words, that none of them had come from any member of our organization, it had all come from officials of

S. M. 668

the company and the affiliated companies.

Q. Is that the only conversation you had on that point? A. As far as I remember, yes, sir.

Q. Did you report that to your membership? A. I did.

1904

Q. Was there then an emergency meeting called on the basis of your report? A. A special meeting was called.

Q. When was that, do you recall? A. Also in December, that is as definite as I can be about it.

Q. The early part of December? A. I believe so, yes.

Q. 1935? A. 1935.

Q. What was the purpose of that meeting? A. To submit a report, on the discussion that had taken place with Mr. Dean, to also submit reports on the people who had been contacted to protest.

1905

Q. Yes. A. After these reports were submitted, while I was making my report, some of the members insisted that a vote be taken that night, whether they should strike, if necessary, in order to reinstate these men to their positions with the company.

Q. And with whom was the discretion left for the calling of a strike if necessary? A. The strike vote was

S. M. 669

taken. I protested against the taking of this vote at that meeting.



1906

*William J. Kennedy—For N.L.R.B.—Direct*

Q. You mean a strike vote? A. Yes.

Q. Yes. A. However, I was overruled, the majority seemed to be very anxious for action of some sort to reinstate these men and the strike vote was taken and time and place and date and hour of the strike was let in the hands of the then strike committee which automatically became a strike committee after the strike vote was taken.

Q. Well, did your emergency committee become the strike committee? A. Yes, sir.

1907

Q. So that you remained then as chairman of the strike committee, is that right? A. That's correct.

Q. And did you take any further steps to secure the reinstatement of the discharged persons to avert the possibility of a strike? A. We did.

Q. What did you do? A. All that we considered possible, letters and telegrams to Mayor LaGuardia, the same thing to the Public Service Commission, the Gov-

S. M. 570

ernor of the State of New York and I believe the State Department of Labor, and numerous patriotic and fraternal and political societies, et cetera.

1908

Q. Did any of these letters or conferences with—did any of these letters to public officials or conferences with public officials result in the reinstatement of these persons? A. No, sir.

Q. Was there any arbitration machinery set up for the submission of this controversy? A. We met at Mayor LaGuardia's office one morning. We were requested to appear there. The sub-committee of the strike committee representing the union, our attorney, Mr. Dean, was there, Mr. Sidney Cohen, that is correct. I believe.

Q. Mr. Sidney Cohen? A. Yes, and Mrs. Elinore

Herrick was appointed, I believe, by Mayor LaGuardia to be his personal representative at that conference. Mr. Dean, and I believe an attorney for the company, a Mr. Portenhauer, and Mr. Largay of the State Department of Labor.

Q. That was still before the holiday in December of 1935? A. Oh, yes.

Q. And was there a discussion at that time regarding the submission of this question to arbitration? A. Mayor LaGuardia asked if it would be submitted to arbitration that he be allowed to appoint an arbitrator. Mr. Cohen, representing us, agreed, Mr. Dean declined,

1910

S. M. 671

stating that there was nothing to arbitrate.

Q. And that broke off further negotiations, is that right? A. That is correct. However, Mr. Dean was requested by Mayor LaGuardia to call him later in the afternoon and give it some consideration and let him know if he had changed his mind. Mr. Dean stated that, well, perhaps he would call but his answer would remain the same.

Q. And that was the last effort made by any public official to dispose of this question, is that right? A. No, I believe not.

1911

Q. Well, what else took place then? A. Mr. Largay came to our local headquarters in Queens a day or two later and stated that he had spoken to Mr. Dean but could not get any place and came back to tell me and tell our organization that there was nothing he could do, he was very sorry, and he also asked me what I, as chairman of the strike committee, intended to do. I stated to Mr. Largay that I, as an individual, felt responsible for the men. The majority of the members of our Queens local, that I had been instrumental in

1912

*William J. Kennedy—For N.L.R.B.—Direct*

bringing them into the organization, that it was my belief that the company did not care whether they went out on strike or not. There was not any too much work as far as the overhead bureau was concerned and overhead men constituted the majority of our membership. With the idea in mind that if they did go out,

S. M. 672

1913

they would be locked out, I probably would not call a strike, that there would not be any strike, especially as it was a bad time of the season also, the public would immediately turn against us and that I would give myself about six months with the company, if I did not call a strike.

This was in January, and six months later in June I got the axe.

Judge Ransom: I move to strike out the witness' argument in his behalf, wholly self-serving, not within any issue here.

Trial Examiner Gates: It may stand.

Judge Ransom: Exception.

1914

Q. (By Mr. Moscovitz) So that a strike was not called and the matter was then dropped, is that right?  
A. That's correct. We had numerous visitors from other organizations pledging support, powerful international and national unions in the city, but I did not think that our men could possibly win and especially around that time of the year; the strike, however, was not called.

Q. Did these visits from other organizations continue into 1936? A. 1936?

Q. After the holiday season? A. In some cases, yes.

*William J. Kennedy—For N.L.R.B.—Direct*

1915

S. M. 673

Q. Did you then bring the matter formally to the attention of the Labor Board? A. That was not any Labor Board at that time, there wasn't any.

Q. I see. You mean there wasn't any Labor Board in existence in New York City at that time?

Judge Ransom: Don't shake your head. Did you mean to answer that, did you answer that in the negative, you just shook your head.

The Witness: Well, that was part of the answer, no, I don't believe so.

1916

Q. (By Mr. Moscovitz) Did you continue then as president of your national organization after this strike talk disappeared? A. Yes, sir.

Q. Was the strike vote ever rescinded or did it just fall? A. It just fell apart, that's all.

Q. The committee disbanded? A. The strike committee?

Q. Yes. A. Yes.

Q. All right, did you continue your organizational activity after your conferences with the Mayor in 1935? A. Yes, sir.

1917

Q. Did you continue them up to the time of your discharge? A. I did.

S. M. 674

Q. Now, were these activities in support of your desire to secure more membership? A. Yes, sir.

Q. And did you secure membership during that period of time? A. I did.

Q. Now, after the committee disbanded, can you tell me whether or not your membership began to weaken, or whether or not there was an increase in member-

1882

*William J. Kennedy—For N.E.R.B.—Direct*

Mr. Moscovitz: Sir?

Judge Ransom: Could you give the names of those men?

Mr. Moscovitz: I think he has already given them, but I will ask him again.

Q. (By Mr. Moscovitz) Will you give them again?

A. It is practically the same group that I had given previously, Mr. Frank Casey, and Mr. William Wrightson, from the Jamaica district. Mr. John Young, Mr. Albert Martini of the Elmhurst district and myself from the Flushing district.

1883

Q. So that new officers were elected in your place, is that right? A. That is correct.

S. M. 659

Q. And they continued until such time as the plan went out of existence, is that right? A. They continued for the following year, '35 to '36, I believe.

Q. Were they in position at the time you were discharged? A. Oh, yes, in fact, some of them, I believe, had been promoted.

1884

Q. At the time you were discharged? A. That is correct.

Q. When you say "promoted", you mean to better jobs? A. Transferred out of that department to some other position.

Q. Which men? A. One man especially, Mr. George O'Brien, who received, I think, four votes, acted as employee representation plan representative for that year. Right after this term, I believe, he was transferred to some other position within the company.

Q. Now, after February 29, 1935, you acted as business manager of your local? A. General manager.

Q. General manager of the local? A. Yes, practically the same thing, yes.



*William J. Kennedy—For N.L.R.B.—Direct*

1885

Q. But you had complete charge of the organization; is that right, of your organization? A. That is the functional organization. It is ex-officio chairman of certain publicity committees and so forth.

Q. Who were the other officers? A. At that time Mr. Wersing was president of the local. Mr. Wagner

S. M. 660

was the treasurer and I believe Mr. Grulich was the vice president.

Q. Had you elected a secretary? A. Mr. Wrench.

1886

Q. How long did you continue as business manager of this organization? A. Until I was elected a delegate of the national convention which took place in Providence.

Q. Providence, Rhode Island? A. Yes.

Q. When? A. I was elected a delegate to that convention in July, 1935. The convention itself took place the following month, August.

Q. 1935? A. 1935.

Q. Did you go to that convention? A. I did, as a delegate.

Q. And were you elected to a higher organization position at that convention? A. I was.

1887

Q. What was the position to which you were elected? A. At that convention I was elected national president of the national organization, Brotherhood of Utility Employees of America.

Q. How long did you hold that position? A. Until

S. M. 661

the independent organization had set up a committee to discuss and negotiate affiliation with the American Federation of Labor and the I.B.E.W., the International Brotherhood of Electrical Workers.



1918

*William J. Kennedy—For N.L.R.B.—Direct*

ship? A. There was a considerable weakening among the members. I would say it dropped in the membership, a drop in the membership.

Q. At this point? A. Yes, around January.

Q. 1936? A. 1936, yes.

Q. And did you then further your efforts to bolster this fall and increase membership? A. Oh, yes.

Q. So that your activities became more intensified. Is that right? A. What was possible, yes.

1919

Q. And had you taken any steps after January, 1936, to negotiate with the company for an adjustment of any grievances or disputes? A. Not that I remember, no, sir.

S. M. 675

Q. Was your organization planning a campaign for the purpose of eventually submitting a proposed contract to cover certain units within the company's operations? A. That I believe took place after I went out of the company in June.

1920

Q. Were you encountering, after January, 1936, any interference by the company in your organizational work? A. Many of the foremen of these line trucks made many statements that undoubtedly had a considerable effect upon the members.

Q. Who were the foremen to whom you refer? A. I could not say one by name, but many of the members I used to hear them discussing it, especially at meetings, that this foreman said this or that foreman said that.

Q. In reference to your organization? A. Yes, that the officials of the company stated that they could replace any man who went out and save considerably.

Q. Was there any change in policy after January, 1936, by your independent organization in regard to

*William J. Kennedy—For N.L.R.B.—Direct*

1921

its relation with the employees representation plan? A. After 1936, after January, 1936?

Q. Yes. A. Yes, I believe it was decided early in 1936 that nothing had been accomplished in the previous year with the representatives and the employee representation plan. For that reason the men who were

S. M. 676

formerly the representatives the first year should go back in again.

1922

Judge Ransom: I move to strike out the answer as not responsive and wholly incompetent and outside any issues here.

Trial Examiner Gates: Will you repeat the question and answer, please?

(The reporter repeated the last question and answer.)

Trial Examiner Gates: It may stand, but it seems to me that the meaning is not clear.

Mr. Moscovitz: The meaning of the question or the answer?

Trial Examiner Gates: The answer.

1923

Q. (By Mr. Moscovitz) Well, is that your full answer to my question? A. I could condense it perhaps better than that.

Q. Then try to condense it, please. A. The five men, members of the brotherhood, who were formerly representatives the first year, would go back the third year and again represent the employees.

Q. And did you all run again to office in the employees representation plan? A. We did.

Q. Did you run, too? A. I did.

1924

*William J. Kennedy—For N.L.R.B.—Direct*

S. M. 677

Q. Were you all nominated? A. We were.

Q. Elected? A. We were.

Q. Who was elected? A. Our own situation, of course, was of primary importance to us—

Judge Ransom: I move to strike out the witness' arguments. He was asked simple questions, called upon for names.

1925

Q. (By Mr. Moscovitz) Tell us who were elected.

Trial Examiner Gates: The motion to strike is granted.

Q. (By Mr. Moscovitz) Tell us who was elected. A. Mr. Young and myself, and Mr. Emloff from Elmhurst.

Q. Did you find yourselves elected to the job that you held previously? A. I did.

Q. Delegates at large? A. Representative from the Elmhurst district.

Q. Is that known as representative-at-large? A. No, there were no more representatives-at-large.

1926

Q. It had been changed in that regard? A. The combining of the districts changed that.

Q. Did you at the same time continue your job as president of the national organization? A. I had re-

S. M. 678

signed from the national organization as president when they became affiliated with the I.B.E.W.

Q. Now, when had that national organization, when did the national organization become affiliated with the I.B.E.W.? A. Not the national organization. I was incorrect there. Our local.

*William J. Kennedy—For N.L.R.B.—Direct*

1927

Q. When did your local become affiliated with the I.B.E.W.? A. April, I believe, of 1936.

Q. And did you then become a regular member of the I.B.E.W.? A. That's correct.

Q. Without office? A. Correct.

Q. Did you resign before becoming a member of the I.B.E.W.? A. I did.

Q. Did you resign from the Utility Employees organization or was the Utility Employees organization absorbed by the I.B.E.W.? A. Absorbed by the I.B.E.W. Reorganization in the I.B.E.W. —

1928

Q. Who were the officers of the new I.B.E.W. local? A. Mr. Wersing.

Q. They are the officers that you have already listed? A. No, they combined all of the locals, all of the former locals.

Q. What locals did you find yourself in after reorganization? A. Local B-752 of the I.B.E.W. That covered all the former independent locals in New York

S. M. 679

City.

Q. How many former independent locals had there been? A. Three, offhand.

1929

Q. What were they? A. Brooklyn Local had a specific number, 102, I believe it was; Queens Local, 103; local New York, Local 100, I believe.

Q. They all became then part of the one local of the I.B.E.W.? A. That's right. They all became Local B-752 of the I.B.E.W.

Q. Mr. Wersing, you say, became president of that local? A. He was elected president.

Q. Who were the other officers elected? A. Mr. Schubert. I don't know who the others were.

1930

*William J. Kennedy—For N.L.R.B.—Direct*

Q. What was Mr. Schubert's position? A. Secretary, I believe.

Q. And was it, then, the decision of the members of the I.B.E.W. that you men run for office in the employee representation association? A. That I don't believe was ever brought out into a discussion at any meeting that I attended.

1931

Q. Well, in any event, was this decision to run for office in the E.R.A., or the E.R.P., made after you became affiliated with the I.B.E.W.? A. Not officially, just among our own members in the overhead bureau in the New York & Queens Company.

S. M. 680

Q. Well, was it made, though, before or after you became affiliated with the I.B.E.W.? A. It was made prior to affiliation with the I.B.E.W.

Q. Before you knew you were going to become affiliated with the I.B.E.W.? A. That is correct.

Q. And how long did you continue as a representative in the E.R.P.? A. The second term.

1932

Q. Yes. A. I was elected on June 11th and fired on June 19th. I was nominated and elected and fired before I officially took office.

Q. Now, at the time you became a member of the I.B.E.W., had you taken any steps to secure membership in the I.B.E.W.? A. Before we affiliated?

Q. Yes. A. Yes, before we affiliated we were trying to build up our independent organization.

Q. But after you became a member of the I.B.E.W., did you go out and attempt to bring employees into membership in the I.B.E.W.? A. Oh, yes.

Q. So that you then became an active member of the I.B.E.W.? A. Very much so, yes.

1933

S. M. 681

Q. Did you succeed in securing members for the I.B.E.W.? A. I did.

Q. From your own bureau? A. Yes.

Q. From other bureaus, too? A. Yes.

Q. Did you spend all of your time outside of your working hours in this activity? A. I would say the majority of it, yes.

Q. And you were then, too, at the same time working as a representative of the E.R.P. Is that right? A. No.

1934

Q. Never had a chance to do that? A. No, sir.

Q. All right. Mr. Kennedy, after you became an active member of the I.B.E.W., did you bring the matter to the attention of management? A. Personally?

Q. Yes. A. No, sir.

Q. Did you have discussion with your supervisor or any supervisory employees about the reorganization? A. No, sir.

Q. Did it appear in any publication that the independent organization, of which you were national president, had undergone a reorganization and was now a

1935

S. M. 682

member of the A.F.ofL.? A. Oh, yes.

Q. In what publications did that appear? A. In the Brotherhood News, I think it was.

Q. Is that a regular publication? A. It was a publication that was put out by all of the combined locals.

Q. Of the I.B.E.W.? A. No, of the independent organization.

Q. Of the independent utility employees? A. That is correct.

Q. Well, did it then appear in that utility employees



1936

*William J. Kennedy—For N.L.R.B.—Direct*

publication that you had reorganized? A. I don't remember whether it came out in that or not.

Q. When did it cease being published? A. I couldn't say on that. I had nothing to do with the publicity.

Q. But after you became a member of the I.B.E.W., and after its reorganization had been concluded, did it appear in the publication, in the public press, for instance, that your organization, the organization of which you were national president, had gone over to the American Federation of Labor? A. Yes, I believe so.

1937

Q. Did it appear in any literature that was circulated, to your knowledge? A. Oh, yes, leaflets.

S. M. 683

Q. And were those leaflets, leaflets distributed for organizational purposes? A. Very much so.

Q. Around the plant? A. All over the system.

Q. Were these leaflets, leaflets gotten up by the I.B.E.W., your local? A. By our local, yes.

Q. That is, by your local of the I.B.E.W.? A. Yes.

Q. After April, 1936, when you became a member of the I.B.E.W., is that right? A. That's correct.

1938

Q. You testified that you continued your regular organizational activities? A. Yes.

Q. Now, it was after that that you then became nominated to the plan? A. Yes.

Q. Did you attend any regular meetings of the employees representation plan? A. No, sir.

Q. And at any time before your discharge? A. Be-

S. M. 684

tween April—

Q. Between April and your discharge? A. Didn't have very much time, no, sir.

*William J. Kennedy—For N.I.R.B.—Direct*

1939

Q. You did not have very much time? A. No, sir.

Q. Had you received notice that you were to be discharged? A. No, sir.

Q. What was the day of your discharge? A. June 19th.

Q. And when were you to be formally inducted into the office as a member of the employee representation plan? A. July 1st. I had already received notification that I had been elected.

Q. And from whom did you receive this notification? A. Signed by George O'Brien, Mr. M. J. Keller, A. Ellison.

1940

Q. What time of the day was it that you received notice of discharge?

Judge Ransom: Just a moment. Were they the Board of Tellers, or something of that sort?

The Witness: O'Brien, I believe, was a representative at that time.

Judge Ransom: You mean a bureau representative?

The Witness: Yes, I believe so.

Q. (By Mr. Moscovitz) Can you tell me what time of the day it was that you were discharged? A. Shortly

1941

S. M. 685

before noon.

Q. By whom were you discharged? A. I received notification by a Mr. Paine, of the personnel bureau, that was on, not the 19th, but the 18th.

Q. What was the notice? A. It was brought out by Mr. Tom Green, general foreman of the Elmhurst district of the overhead bureau. He came out to the job and asked my foreman if I was in the gang. He stated that I was, and he said, "I have a note for him," and he

1942

*William J. Kennedy—For N.L.R.B.—Direct*

handed me the note. The note was simply that I was to report to Mr. Paine in such and such an office in Long Island City.

Q. Did you report to him the next day? A. That same day.

Q. You did? A. Yes.

Q. Did you find him in? A. Yes.

Q. Did you see him? A. I did.

Q. What took place? A. Mr. Paine asked me to sit down. I sat down. Stated that he had some bad news for me. I told him I guessed as much. He stated that I was a surplus employee. I asked if it took eight and a half years to discover that I was a surplus employee.

1943

S. M. 686

Mr. Paine made some statement. He seemed to be rather embarrassed. I said, "How did you come to select me?" He said he had nothing to do with that. I said, "Well, what procedure do you go through in selecting your surplus employees?"

He couldn't answer that. He said, "Suppose I tell you this way, that naturally when they have to lay off surplus employees they always retain, or we always retain the most valuable men."

1944

So I said, "Well, using your own statement, then, who is more valuable in an overhead bureau than a first class lineman, not that I wish to cast any reflections on the ability of a second class lineman or a first class lineman, but you will have a tough time showing me who is a more valuable person in the overhead bureau than a first class lineman, and the three men that I see who are to be laid off, who are classified as surplus employees, are all first class linemen."

He didn't know anything about that. He didn't know anything about the situation at all evidently.

*William J. Kennedy—For N.L.R.B.—Direct*

1945

Judge Ransom: I move to strike out the witness's argumentative statement, and ask that he confine himself to what was said.

Trial Examiner Gates: Motion to strike is granted.

Stick to your statement and to Mr. Paine's statement.

S. M. 687

Mr. Moscovitz: What is being stricken, Mr. Examiner, just the last?

1946

Trial Examiner Gates: The reporter will read.

Mr. Moscovitz: Just the last statement made by the witness?

Trial Examiner Gates: Yes.

Mr. Moscovitz: All right. That is all right.

Q. (By Mr. Moscovitz) Can you tell me, Mr. Kennedy, whether or not it was brought to your attention that other persons were being discharged at the same time? A. Nothing was brought to my attention except the men I saw down there, three of them, were union men, and they were definitely laid off, and one was not a union man and he was definitely not laid off.

1947

Q. Were there other men waiting to go in and see Mr. Paine with you? A. The man who accompanied me down there was a man that had spent years in the employ of the company.

Q. What was his name? A. William Baake. He was a Norwegian.

Q. Yes. A. He had been a lineman for many years. He was working in the same gang I was working in.

Q. How many years have you been with the company, do you know? A. Mr. Baake had been with the company on and off for a good many years, this last time

1948

*William J. Kennedy—For N.L.R.B.—Direct*

S. M. 688

I believe something like eleven years.

Q. And who was the other man that you found? A. Another man who had been elected a representative at the same time I was, Mr. John Emler.

Q. Who was the other man? A. The other man appeared later, his name was Stein, James Stein, if I remember correctly.

Q. Now, the two men in addition to yourself, you say, were union men, with the exception of Mr. Stein?

1949

A. That's correct.

Q. Who was a non-union man? A. That's correct.

Q. Now, the three of you men were discharged, is that right? A. Yes, sir.

Q. Was Mr. Stein discharged? A. He was not.

Q. What was he doing there then? A. He was evidently sent down there, I asked him what he was there for, and he said he was sent down by Tane in the personnel bureau, I said I guess you got the same thing we got. He could even answer me, he was all upset and excited the same as we all were.

1950

Q. Did you find from him later that he was not discharged? A. Yes, I know that he is still working for the

S. M. 689

company, continued to work for the company, well, within a day or so after that.

Q. Well, was he laid off for a day or two? A. Not that I know of, no, sir.

Q. You don't know whether or not at the time of your discharge you had more seniority than other men in your division? A. Oh, yes.

Q. Can you name men who were left in the employ of the company as first grade linemen over whom you

had greater seniority? A. Well, not offhand, I know there were many of them.

Q. Do you know the names of many? A. Yes, quite a few.

Q. Would you mind naming them? A. Well, I would say the majority.

Q. You had more seniority than the majority? A. I believe so.

Q. Of first grade linemen? A. Yes.

Q. How many first grade linemen were there? A. When they combined the two districts, Flushing and Elmhurst, they must have had at least 70 linemen.

1952

Q. Will you say that you had greater seniority than the majority of that 70? A. Well, the men from the former Elmhurst group, I would not know, but I be-

S. M. 690

lieve so, I am quite definite about the men from Flushing.

Q. Certainly of the men from Flushing, is that right? A. Yes, sir.

Q. And can you tell me whether or not other first grade linemen were laid off or discharged at any time after your discharge? A. Not that I know of, no, sir.

1953

Q. Were there any laid off or discharged, to your knowledge, at any time before your discharge? A. No, sir.

Q. They weren't? A. Not that I know of.

Q. Do you know whether or not there were any lay-offs or discharge from your line of work, first grade linemen, within the few weeks preceding the date of your discharge? A. No, sir.

Q. Were any steps taken by you to secure reinstatement? A. No, sir.

Q. Can you tell me whether or not Mr. Paine ex-



1954

*William J. Kennedy—For N.L.R.B.—Direct*

plained to you what a surplus employee was? A. He did, in so many words, that there was not enough work for all the men in the bureau, and these men who were classified as surplus employees could be laid off right there with a separation allowance, that is, two weeks'.

S. M. 691

pay for each year of service, or transferred to a temporary job with some other company, where there were vacancies.

1955

Q. Did you receive a separation allowance? A. I did.

Q. Have you heard the term "surplus employee" used before in the system? A. Never, no, sir.

Q. Can you tell me whether or not there was plenty of work for you to do at the time you were discharged?

Judge Ransom: I object to that as wholly incompetent and calling for a conclusion.

Mr. Moscovitz: I will withdraw the question.

Q. (By Mr. Moscovitz) Can you tell me whether or not you had completed your particular job at the time you were discharged? A. Completed the particular job?

1956

Q. Yes, were you working on some job that was incomplete? A. Yes, I was taken off the job.

Q. You were taken off a job to be discharged, is that it? A. Correct.

Q. What job was that? A. We were digging trenches, laying pipe, pulling services, underground service into consumers' premises, connecting them up, cutting them in, splicing, stripping poles, taking down overhead wires, general combination of overhead work, line work, cable

S. M. 692

work, service work, not only did the work slow up, but it increased, in fact, within a few days after these men,

*William J. Kennedy—For N.L.R.B.—Cross*

1957

including myself, were fired we had been working a five-day week, within a few days after we were fired they went on a six-day week and transferred additional men into our bureau from other departments.

Judge Ransom: I move to strike out all the answer as not responsive to the question that asked for information as to a particular job on which the witness claimed he was engaged.

Trial Examiner Gates: It may stand.

Judge Ransom: Exception.

1958

Q. (By Mr. Moscovitz) What was the salary at the time you were discharged? A. My salary?

Q. Yes. A. \$40.48.

Q. You want to go back to work for the company, do you not? A. I do, yes.

Mr. Moscovitz: That's all.

Trial Examiner Gates: We will recess for five minutes.

(Whereupon, a short recess was taken.)

AFTER RECESS.

1959

Trial Examiner Gates: Proceed.

### CROSS EXAMINATION:

S. M. 693

Q. (By Mr. Ransom) Mr. Kennedy, in testifying to your numerous alleged conversations with Mr. Folan, you were aware that he is dead? A. Oh, yes.

Q. And do you know when he died? A. Do I know when he died?

Q. Yes, about? A. I believe it was the last day that I was a representative in the company union.

1960

*William J. Kennedy—For N.L.R.B.—Cross*

Q. That would be in June of 1936? A. I believe in May of 1935.

Q. At the time you were first a member of the council of the overhead bureau? A. That's correct.

Q. In testifying to this telephone conversation with Mr. John Young, were you not testifying to an alleged conversation with another organizer or active worker in the C.I.O. organization? A. No, there was no C.I.O. organization.

1961

Q. Well, I mean, at the present time, isn't Mr. Young a member of that organization? A. The question is a little bit out, as far as I am concerned, I don't disclose the membership of any men in our organization.

Q. Well, will you say to this Board that Mr. Young, with whom you had, or claimed that you had, this tele-

S. M. 694

phone conversation to which you testified, that Mr. Young is not an organizer or active worker in the C.I.O. organization?

1962

Mr. Moscovitz: I object to that question, Mr. Examiner.

Trial Examiner Gates: The question as I understand it is not whether he is a member, but whether he is an organizer.

Judge Ransom: An active worker.

Mr. Moscovitz: In the C.I.O. at the present time?

Trial Examiner Gates: That's right.

Judge Ransom: That is correct.

Mr. Moscovitz: I object to that question. I don't see that that is a question—

Judge Ransom: Well, I want to—

Trial Examiner Gates: Just a minute, do you

wish to amend the question so that it refers to open and notorious activity?

Judge Ransom: I will ask first this question: Isn't John Young, with whom you say you had this telephone conversation to which you testified, isn't he at the present time openly known as an organizer or active worker of the C.I.O.?

A. I still say, Mr. Ransom, that I never disclose the membership of any man in the organization, with all due respect to yourself.

S. M. 695

Judge Ransom: I ask that the question be answered, because here is a witness who is an organizer in the organization which brought this charge, and as far as I am concerned his testimony would not arouse the slightest interest but for the fact that it is made up of alleged conversations with a dead man and alleged conversations with a fellow organizer in the C.I.O., so I am entitled to have the record show that.

Mr. Moscovitz: Mr. Examiner, I would have no objection to this witness answering the question as to whether or not Mr. Young is an organizer of the C.I.O., that is, a paid organizer who is working for the C.I.O., but I don't think that it is proper that there be elicited from this witness testimony regarding the organizational activities or desires of presently employed workers in the system because of the obvious—first, because obviously the men are fearful of disclosing their identity for fear that there may be some form of reprisal taken against them; secondly, it is certainly not a question that is prob-

1966

*William J. Kennedy—For N.L.R.B.—Cross*

ably, subject to cross-examination, nor is it at all relevant to the proceeding that we have here before us.

The question regarding Mr. Young that was raised on direct testimony was one that did not relate at all to the present activities of the C.I.O.

Trial Examiner Gates: Just a minute, I think the question is proper, I will ask you to answer it.

S. M. 696

1967

The Witness: Which part of the question?

Trial Examiner Gates: The question last put to you. Will you please repeat the question?

(The reporter repeated the last question as follows:

"Q. I will ask this question: Isn't John Young, with whom you say you had this telephone conversation to which you testified, isn't he at the present time openly known as an organizer or active worker in the C.I.O.?"

Mr. Moscovitz: I think, Mr. Examiner, the question is a bit confusing. There is quite some significance to be attached to the word "organizer", and the question, I think, should be first of all split into two questions.

Judge Ransom: Well, I have changed my question at the suggestion of the Examiner. I will now also change it at the suggestion of the government.

Trial Examiner Gates: He may answer.

A. Mr. Young is not at the present time an organizer for the C.I.O.

Q. (By Judge Ransom) Is he an active member in

1968

*William J. Kennedy—For N.L.R.B.—Cross*

1969

the C.I.O.? A. Do you mean is he a member of the C.I.O.?

Q. I am asking you if he is an active worker in the C.I.O.

Trial Examiner Gates: I have indicated that the question should be limited as to the openness on the part of his activities, if he is active.

S. M. 697

Judge Ransom: Well, for the moment, I will ask the witness whether Mr. Young is known as a worker or active worker in the C.I.O.

1970

A. Mr. Young is actively a worker, a member, very active in the affairs of the C.I.O., yes.

Q. (By Judge Ransom) Now, you gave an extended picture of your work for the company. Did you say anything to the Board about the fact that in, for example, the 12 months prior to the termination of your employment, you were absent about 20 per cent of the time? A. Did I state that I was absent?

Q. About 20 per cent of the time? A. No, I did not.

Q. Is that the fact? A. I have never judged it as far as percentage is concerned.

1971

Q. Would you say it is approximately correct? A. No, I wouldn't say it is approximately correct. I will say that I did lose time. In the nature of the work, it is necessary to be gone frequently doing work in shallow "R" boxes with water pouring in in order to finish a job which has been started while it was thawing, and that I believe was in January of 1936, when I frequently had to do that.

Q. Well, without going into argument about it, were you shown—

Mr. Moscovitz: I think, Mr. Examiner—



1972

*William J. Kennedy—For N.L.R.B.—Cross*

S. M. 698

Judge Ransom: He may explain on redirect, if he wants to.

Mr. Moscovitz: But the witness is not permitted to answer his question.

Judge Ransom: He is not going to answer it yet. I asked the witness a question, whether a statement that you were absent during the 12 months approximately 20 per cent of the time was about correct.

1973

A. I have no way of knowing.

Q. (By Judge Ransom) And during the 12 months before that, were you absent from work approximately 16 per cent of the time? A. The same answer—I don't know.

Q. You couldn't, don't want to give any impression to the Examiner as to whether that is true or false? A. I have no idea of knowing the approximate time that I lost, no.

Q. I think you testified that you resigned from the company twice during the period of your employment?

1974 A. No, I resigned once.

Q. You resigned once completely from the company and resigned once from the night inspection work? A. That was a job, it was a secondary job. In addition to regular duties, men could get extra money, men in the lower paid brackets, by riding around in their own car nights replacing wornout electric bulbs, if you call that

S. M. 699

a resignation. I still maintained my permanent job with the company.

Q. At the time of the termination of your employment, you stated that you received a separation allow-

1975

ance of two weeks for each year of service? A. That is correct.

Q. At your weekly rate of pay? A. Correct.

Q. And that meant that you received how many weeks' pay as a separation allowance? A. 16 weeks for 8 years of service. The other 6 months' service were not accounted for in any way.

Q. That being prior to your first resignation, prior to your resignation? A. It had nothing to do with the resignation at all.

Q. In other words, you were paid up to about the middle of October, 1936? A. It was around that time, yes.

1976

Q. About how many employees took part in this strike vote to which you testified on direct examination? How many votes were cast at the meeting on that question? A. How many votes were cast?

Q. Yes. A. Well, I can only guess, well over 300.

Q. Is that purely a guess? A. Well, it is very close

S. M. 700

to the exact figure.

Q. Have you stated all that took place in connection with the termination of your employment? Have you given the Examiner and the Board the whole story? A. All that took place?

1977

Q. Yes. A. With my severance of connections with the company?

Q. Yes. A. No, I don't think so.

Q. Well, directing your attention particularly to what took place on the 19th of June, that is the day you say you were discharged? A. Yes, I believe what you refer to began the day previous to the 19th of June, Mr. Paine offered me, or made the offer, rather, of a temporary position, or to be laid off immediately.

1978

*William J. Kennedy—For N.L.R.B.—Cross*

Q. And that temporary position was with one of the Manhattan companies? A. That's correct.

Q. You went over to Manhattan, you and the other men who were being laid off for slackening of work, in that Bureau, you went over to Manhattan to see about that job, didn't you? A. We knew nothing about the slackening of the work.

Q. Well, leaving that out for the moment, did you go over, you did, didn't you? A. The three of us did

1979 S. M. 701

go over, yes.

Q. That was you and Mr. Emler and Mr.— A. Mr. Bakke.

Q. Mr. Bakke? A. Yes.

Q. And that was in pursuance of Mr. Paine's offer to you of a temporary position rather than lay-off? A. That's correct.

Q. Did you or did you not take that temporary position? A. I was not offered a temporary position.

1980

Q. Well, what took place about it? A. Mr. Paine gave each of us a note to take to, I believe, the employees, the employee department, the employment department, of the Consolidated Edison Company at 4 Irving Place. We went to No. 4 Irving Place and found out that the note contained a certain statement that I, as a surplus lineman, wished to be considered for electrical vacancies. We stayed in that department that afternoon, and at 4:30, when we were told to come back the next morning, which would be June 19th—

Q. Well, did you or did you not wish to be considered for electrical vacancies? A. That is further on in the story.

Q. Did you or did you not? A. I still say that is

S. M. 702

further on.

Q. Well, I ask you for an answer to that question for the moment. A. We knew nothing about electrical vacancies at that time.

Q. Well, did you or did you not wish to be considered for electrical vacancies? A. We wished to find out something about these temporary positions.

Q. That's the only answer you have? A. Yes, sir.

Q. Well, you say you came back the next morning?

A. Correct.

1982

Q. Where did you come to then? A. What was that?

Q. Where did you go to the next morning? A. To the same place.

Q. All right, that is June 19th? A. June 19th, we were directed to a Mr. Sohl, I believe his name was, the three of us.

Q. Where was he located? A. One of the floors at 14th Street Building.

Q. In what department? A. I believe the construction department.

Q. And what took place? A. Mr. Sohl told me about what vacancies existed, the type of men he wanted

1983

S. M. 703

were electrical mechanics, he asked me if I had any experience in wiring switchboards, cut-outs, switch panels, etc., and I stated that all my experience with the company had been as a first class lineman.

Q. Well, you did not mean that, of course, did you? A. Certainly I meant it.

Q. All right. A. Practically all of my experience had been in the first class lineman work, what I meant was,

1984

*William J. Kennedy—For N.L.R.B.—Cross*

that it was quite plain to me that they did not need any first class linemen in a generating station. He stated that he could not use me as an electrical mechanic, but I might be considered as an electrical mechanic's helper.

Q. Now, for this wiring work? A. I suppose so.

1985

Q. Well, what did you do about it? A. I told him that I resented the fact, first, that I was classified as a surplus employee after being on the payroll for eight and a half years on a permanent status; second, that I resented being classified as a helper after proving my ability as a first grade mechanic and lineman; third, that undoubtedly there would be a drastic cut in pay if I accepted this temporary position.

Q. Did he tell you, or did you ask him what the rate of pay was for the work? A. I did.

S. M. 704

Q. For the work for which you were seeking men to do this class of wiring? A. I did.

1986

Q. What did he say? A. That the position of electrical mechanic's helper, that the maximum was about \$30 a week. I was then receiving, or up until that time, \$40.48.

Q. So what? A. So I declined the position. About the time I started to decline he said he had not even offered it.

Q. Did Mr. Emler and Mr. Bakke do the same thing? A. I believe so, they told me so.

Q. They were with you, were they? A. Yes.

Q. And then what did you do? A. Then we were sent from there back, I believe, to the employment bureau and from there back to the personnel bureau of the Queens Company.

*William J. Kennedy—For N.L.R.B.—Cross*

1987

Q. Now, was it that time that you came back there on the 19th that this conversation, you say, which you previously testified to, took place? A. That's correct.

Q. Now, after the termination of your employment, into what business did you go? A. I secured a retail

S. M. 705

beverage license to operate a bar and private club.

Q. Can't we agree on calling it a saloon? A. Oh, never, a saloon is a public place, this place was restricted to members only, and therefore a private club.

1988

Q. It has been some years since I have known that way of getting alcohol in this state; how long did you run this private club for the retail sale of alcoholic beverages in the Borough of Queens? A. How long did I run it?

Q. Yes. A. Well, I don't know whether I am still running it or not, I did make an investment in there and as far as I know, it is still in there.

S. M. 706

Q. Well, are you participating actively in its operation? A. No, I am not.

1989

Q. Just where in the Borough of Queens was this private club for the retail sale of liquors located? A. Where was it located?

Q. Yes. A. 13-39 122nd Street, College Point, Long Island.

Q. I still won't argue with you about what you called it, but some time after you became actively engaged in the operation of this private club for the retail sale of liquor did you receive any word from any one connected with the company relative to employment as a lineman? A. Oh, yes.



1990

*William J. Kennedy—For N.L.R.B.—Cross*

Q. And from who did that word come? A. A Mr. Smith of New York and Queens.

Q. Mr. Smith who is in the personnel bureau of that company? A. I believe he is in the personnel bureau, yes.

Q. And you were acquainted with Mr. Smith? A. Yes, I knew Mr. Smith by sight.

Q. Can you fix the approximate time that you heard from Mr. Smith relative to work as a lineman?

1991

A. The latter part of 1936, I believe, I cannot be exact about that.

Q. You mean perhaps in November or December?

A. Yes, I believe around that time.

S. M. 707

Q. And will you state, as you recall it, if you are able to recall it, what was the message which you received? A. The message I received?

Q. Yes. A. The first message was over the telephone. I had just gotten to bed. You see my club activities ran into the small hours of the morning.

Q. Clubs often do. A. Pardon?

1992

Q. I say, clubs often do. A. Yes. Things were rather hazy. I had only been in bed a short time. Somebody else answered the phone and I was put on and found out it was Mr. Smith, that he wanted to see me something about a job for a lineman. I told him I would get down there about noon.

He said he wanted to see me before noon.

I told him that was the best I could possibly do. So I got down there as soon as I could, which was about noon. Prior to going there, I called up the local and stated that Mr. Smith had called me, had a vacancy for a lineman, that there was a vacancy for

a lineman, and I told them to try to get in touch with Mr. Emler. When I got down to Mr. Smith's office I found Mr. Emler already in conference with Mr. Smith. When he came out, I went in.

Mr. Smith started describing this job. This is all very hazy to me. As I say I hadn't had much sleep,

S. M. 708

working in this beverage job all night, but the first few words of Mr. Smith made it quite plain that the job was not a lineman's job with the New York and Queens.

1994

Q. A lineman's job with another public utility? A. Yes, but I make the point that Mr. Smith was offering me a job with another company.

Q. Was he offering you a job or was he telling you about a job? A. Well, why did he call me in then if he had a job with another company?

Q. Isn't it a fact that inquiry had been made of him by another company which had vacancies for a lineman? A. That is correct. I inquired about the job's salary, and the pay for a first class lineman in that company was the pay of a first class helper with the New York and Queens.

1995

Q. Under those circumstances did the attraction of the retail sale of beverages by private club seem to be greater? A. I don't say it was greater. There was no attraction when I found out the job was not with the company.

Q. In any event, you did not take it. A. I did not.

Q. Do you know whether Mr. Emler did? A. Mr. Emler did.

Q. I think that is all.

1996

*William J. Kennedy—For N.L.R.B.—Redirect*

S. M. 709

**REDIRECT EXAMINATION:**

Q. (By Mr. Moscovitz) Judge Ransom asked you about the percentage of time that you lost in the 12 months preceding the termination of your employment with the company? A. Yes.

Q. Had you lost that time because of illness? A. Yes, I had been sent home by company doctors.

1997

Q. Yes. And weren't you directed to take that time off at the request of the company doctors? A. That is correct.

Q. And does the same go for the percentage of time you lost in the 12 months prior to that 12 months period? A. Each time I went home I was sent home by a company doctor. They took my temperature and so forth.

1998

Q. And will you explain why? A. Yes. I started to explain before, that working in these shallow boxes, especially this one time, reference to January, 1936, I had been working in what is known as an "R" box. It is a box about 3½ foot deep, supposed to have a drain in it but they become clogged with sand and mud, and this time during the season of the thaw, water was continually pouring in there and I did get a thorough soaking in attempting to finish a job which had been started prior to the time the sun came up and started to thaw. I developed an illness from it, went to a company doctor right from the job, and he took my

S. M. 710

temperature and sent me home. Now, he could have sent me home for a couple of days, which he did, but upon my returning back to work, I was notified that I

was to be sent to the company farm. I did not ask to be sent to the farm, or sent away, but on both occasions I was sent away by the company each time for three weeks, which will chalk that 20 percent down considerably.

Q. When was that? A. 1935 and 1936.

Q. And were you ready, willing and able both those times to go back to work without going to the farm?

A. I was undoubtedly weak from the illness but I was willing to go back to work and I possibly could have gone back to work.

2000

Q. All right, when you were discharged and classified as a surplus employee, did Mr. Dean discuss with you the fact that you had been ill during the period, during certain periods in the 24 months preceding the termination of your employment? A. Mr. Payne, not Mr. Dean.

Q. Mr. Payne, rather? A. No, there was no discussion, no discussion, in fact I asked about my record and he didn't know anything about it.

Mr. Moscovitz: All right, that is all.

### *RECROSS EXAMINATION:*

2001

Q. (By Mr. Ransom) Do you know anything about your rating with the company for attendance and pro-

S. M. 711

duction and the like? A. It is not quite clear, the question.

Q. Well, you were in one of the company's departments, were you not, where they have the system of rating or grading employees according to various elements going into their qualifications in their work? A. You mean their ability?

2002

*William J. Kennedy—For N.L.R.B.—Recross*

Q. Yes. A. Yes.

Q. Attendance? A. I know about the ability:

Q. Well, I assume you knew about the ability because you testified so modestly about it, but I was wondering whether you knew how the company rated you? A. Well, it was quite evident that each time there were men slated for a higher position if they had to go through an examination I would take that examination, pass the examination and get the higher position.

2003

Q. Did you ever see your employment rating with this company? A. I had no opportunity to see anything like that.

Q. And you don't know whether your general rating was anything above fair, do you? A. If a man's rating is four, then he would not be the type of man they would get out on storm emergency; where a man has to put all he has into the job to make continuous service, where the job is decidedly risky, if a man is

S. M. 712

poor in that bureau, he should not be a first class line-man.

2004

Judge Ransom: That's all.

*Examination by Trial Examiner:*

Q. (By Trial Examiner Gates) Did Mr. Smith tell you the name of the company when he called you in the office on December of 1936? November or December of 1936? A. Yes.

Q. Was it a company affiliated with the Consolidated Edison Company? A. Not to my knowledge, no sir.

Q. Entirely independent? A. Yes, sir.

Judge Ransom: I don't know that there is any objection to bringing that out, it was an-

other public utility in the city of New York but not a member of this group of companies, the company was the New York Dock Company, was it not?

The Witness: That is correct.

Judge Ransom: And their rate of pay for first class linemen was lower than what the Queens Company's pay for linemen helpers was.

The Witness: I believe so, yes sir.

Judge Ransom: That is all.

Q. (By Trial Examiner Gates) You stated that a few days after you left the job in June that they put the linemen's gangs on a six day week and brought

S. M. 713

in, transferred, some additional men to that job; do you know how many additional men, where they got them? A. I believe some of them were transferred in from the subway bureau.

Q. How many? A. I don't know, I haven't any idea.

Q. Do you know whether they were first class linemen? A. I do not.

Q. Or some other grade of linemen or helpers? A. I believe they were helpers.

Q. You don't know whether they brought in any linemen or not? A. No, sir, I don't know.

Q. At one point you referred to the foreman on some of the line trucks; they have the power to hire and fire? A. No, I don't believe so.

Q. They don't? A. Their recommendation might carry weight.

Q. There was quite a bit of testimony relative to a man named Waterhouse, I am not sure that the record is clear as to his job with the company, will



2008

*William J. Kennedy—For N.L.R.B.—Recross*

you state what it is? A. To the best of my knowledge he is the personnel manager of the New York and Queens Electric Light and Power Company, or was at that time.

Q. He was not a member of the employee representation plan? A. I believe his only connection there

S. M. 714

was a member of the negotiations committee of the management.

2009

Q. For the management? A. Yes, sir, he was not an official of the company.

Judge Ransom: He was a member of the management committee present when you had conferences with the management committee. Is that correct?

The Witness: Yes, I believe that is true.

Judge Ransom: I think I will have this employee's rating card marked for identification.

(Document referred to was marked respondent's exhibit No. 4 for identification, Witness Kennedy.)

2010

(Witness excused.)

Trial Examiner Gates: This may be admitted, this letter.

Judge Ransom: You are referring to the letter between Mr. Wersing and Mr. Kennedy?

Trial Examiner Gates: Yes, that will be received as Board's exhibit No. 10.

(Document referred to was received in evidence marked Board's exhibit No. 10.)

Mr. Moscovitz: I will call Mr. Emler.

*John F. Emler—For N.L.R.B.—Direct*

2011

JOHN F. EMLER, called as witness for the National Labor Relations Board, having been duly sworn, testified as follows:

*Direct Examination:*

S. M. 715

Q. (By Mr. Moscovitz) What is your full name? A. John F. Emler.

Q. What is your address, Mr. Emler? A. 5883 Grand Street in Maspeth, Long Island.

2012

Q. Will you try as we go along with this testimony to keep your voice raised if possible? A. I will.

Q. Were you employed at any times by the New York and Queens Electric Company? A. I was

Q. When did you first go to work for that company? A. I think in July, 1927.

Q. And did you work for the company without interruption? A. I did.

Q. Until what period of time, until what date, rather? A. Until June 17th or 19th.

Q. June 19th, 1936? A. 1936.

Q. When you first went to work for the company, what kind of work were you employed to do? A. Well, I was employed to do clerical work in the office of the overhead bureau in Long Island City as a clerk, temporarily.

2013

Q. Your first job then was a temporary one? A. Correct.

S. M. 716

Q. As a temporary clerk, is that right? A. Yes.

Q. How much money did you get a week for that job? A. \$25.00.

Q. How long did you work as a temporary clerk?

2014

*John F. Emler—For N.L.R.B.—Direct*

A. Oh, possibly seven or eight weeks or two months, I just don't remember.

Q. And was it always \$1.23 a week? A. It was until I was put out on another job.

Q. Yes. Did you, after the expiration of the weeks which you testified about, become transferred to another job? A. Yes.

Q. And what job was that? A. That of setting meters.

Q. Was that a temporary job or a permanent job?

2015 A. That was a temporary also.

Q. And what salary did you receive when you started that job? A. As near as I can remember \$27.00 and some change. I don't recall, a week.

Q. How long did you work setting meters? A. Oh, probably seven or eight months or so, I am not exact on that.

Q. Possibly seven or eight months? A. Yes.

Q. And during that period of time did you receive

S. M. 717

2016

the same rate of pay? A. No,—yes, I received the same, \$27.00 a week, until I was given another assignment.

Q. Yes. And what was the next assignment that you received? A. A lineman's helper.

Q. Where was that? A. That was in Long Island City, overhead bureau at that time.

Q. And who were you assigned to help? A. Oh—

Q. First grade lineman or what? A. First grade lineman.

Q. Were you then a helper to a first grade lineman, first grade lifeman? A. First grade lineman and various linemen, second and third and so on.

Q. As needed? A. As needed.

Q. And was that a temporary or a permanent assignment? A. Well, it was permanent in that respect that they gave you eight months or whatever period in school and then if you were successful in passing the test, you were graded.

Q. So that you took an examination, is that right? I mean you took a test in order to become a helper? A. Well, first when I received this—or when I got this

S. M. 718

other job as helping first class linemen, I did receive an increase. That was \$29.00, but from there on you have to take a test.

2018

Q. I see. And did you then take an examination?

A. I did.

Q. How long after you became a helper? A. Seven or eight months.

Q. And did you pass the examination? A. I did.

Q. Did you get a rating on your examination? A. Yes. If you pass to be first class helper, but—and then I got my check, I would say two or three weeks after the examination, I found out that I had skipped that class, and immediately received the pay of a third class lineman.

2019

Q. So that you got a higher promotion than usual; is that it? A. That's right.

Q. And what rate of pay did you receive upon passing the examination and becoming a third grade lineman? A. \$36.00 and some odd cents, but the cents I cannot remember.

Q. Do you recall when it was that you took that job? If you will give me the approximate time it will be all right, if you don't recall the exact date? A. I couldn't—I will say it was two or three days later.

Q. Which will bring you into about what period?

2020

*John F. Emler—For N.L.R.B.—Direct*

S. M. 719

A. Around 1930.

Q. 1930 or 1931? A. Possibly sooner than 1930. I really don't know. I am not so positive.

Q. All right. How long did you work in that job?

A. Well, as it goes, they let you work for a period, well, say, six months, but it may reach into seven or eight some times, when they send you out to school again to take another examination, and if you pass the test, why, they again give you another raise.

2021

Q. Is that what happened to you? A. That is what happened to me.

Q. Where is your school located, which you attended? A. At that time when I first began attending that school, it was located in Flushing. I think it is called the Central Service Station in Flushing.

Q. What is the name of the school? A. It is not a school, they just simply call it a school. They used to have a man to put you through tests and it was in this Flushing Central Service Station.

Q. And you took this other examination? A. That's right. They haven't a school there, they have a couple of poles set up in the back yard and you have to take your test there.

2022

Q. It is a practical test? A. Yes.

S. M. 720

Q. Did you pass that examination? A. I did.

Q. Did you then get a new rating or assignment?

A. Yes, when I passed, I got another rate.

Q. What was that? A. \$39.00 and some cents.

Q. Doing what kind of work? A. That of a second grade lineman.

Q. All right, and how long did you work as a sec-

ond grade lineman? A. Possibly six months, maybe seven or eight, until they gave you another test.

Q. You took another examination? A. Yes.

Q. Did you pass that examination? A. I did, as I understand it.

Q. Did you get a new rating? A. No, I did not.

Q. What did you do—did you then continue at the same job? A. No, I did the duties of a first grade lineman, the rating on my vacation card stated that I was a first grade lineman receiving second grade lineman's pay.

Q. Now, did your rating on your card change after this examination? A. It did not.

S. M. 721

Q. I see. A. You mean in money?

Q. No, I mean in classification, in title, after this last examination about which we have just been talking? A. Yes.

Q. Did you get a change on your card to a designation as first class lineman? A. Yes.

Q. I see. Then there was that change? A. That's right.

Q. Which resulted from the examination? A. Yes.

Q. Is that right? A. That's right.

Q. But you say it also appeared on the card that you were a— A. First grade lineman.

Q. First grade lineman? A. Yes.

Q. Now, did you receive a first grade lineman's pay? A. I did not.

Q. Were you doing a first grade lineman's work? A. I was.

Q. Did you at any time after that receive the pay of a first grade lineman? A. Yes, there was a reclassi-



2026

*John F. Emler—For N.L.R.B.—Direct*

S. M. 722

fication or something like that.

Q. Do you recall when that was? A. No, I do not.

Q. Was it before or after you became a member of any labor organization? A. That was after I was a member of the employees representation plan.

Q. I see. You say it was before you became a member? A. That was after.

Q. After you became a member? A. After I became a member of that.

2027

Q. The employees representation plan? A. The employees representation plan.

Q. But it was before you were a member of the Brotherhood of Utility Employees. Is that right? A. I think so, I am not positive.

Q. Now, what rating did you get when you finally became a first grade—came within the first grade line-man's rating classification? A. Well, as I understand it I was rated as a first class B I think at \$40.48.

Q. And did you, after receiving that classification at any time receive an increase in pay? A. I did not.

2028 Q. So that you received the same rate of pay up to the time you were discharged, including the day of

S. M. 723

discharge? A. That's right.

Q. All right, now, at the time you went to work for the company, were you a member of any labor organization? A. I was not.

Q. Now, was your affiliation with the Employee Representation Plan your first affiliation with labor organizations while employed by this company? A. Will you please repeat that?

Q. When you joined the employee representation

*John F. Emler—For N.L.R.B.—Direct*

2029

plan, that was the first labor organization that you joined in the company, is that right? A. That's correct.

Q. And were you an officer of the employee representation plan? A. I was not.

Q. Were you active in it? A. I was not.

Q. Just a member? A. Just a member.

Q. All right, and did you at any time after becoming a member of the plan become a member of the Brotherhood of Utility Employees? A. I did.

Q. Do you recall when it was? A. Yes, I think it 2030

S. M. 724

was in April of 1935.

Q. And were you at all active in securing members for that organization? A. Not that I can say, I did not get any signatures, but I was active otherwise.

Q. Did you try to get signatures? A. Tried to, yes, in telling the fellows what I thought they should do and so on.

Q. And what were these other things that you did when you say "I was active in other ways"? A. Well, after joining this Brotherhood, why I went to the different fellows and I said that I thought that this was a good thing, an organization that we can go places with and I talked to them and I coaxed them as much as I could, and I tried to have them come over to the meetings and sign an application, join the Brotherhood. 2031

Q. And did you spend quite some time doing that sort of thing? A. Yes.

Q. Did you do it alone or in association with other men? A. I did it alone and I did it in association with other men and in every way I could.

Q. Yes. Did you work from time to time in that activity with Mr. Wersing or Mr. Grulich? A. Well, I

*John F. Emler—For N.L.R.B.—Direct*

was in contact with him a whole lot, I had to be in order to go along with these activities.

S. M. 725

Q. Yes, but you were in different places, weren't you, different working places, they were in an office and you were out in the field? Is that right? A. That's right.

Q. And did you meet at any time with them evenings for the purpose of discussing your organizational activity? A. Yes, I did.

Q. And did you do that through 1935 when you were a member of this organization? A. Yes, I did.

Q. Did you at any time after becoming a member of this organization become elected to an office within it? A. Well, I was elected to what they call the executive council.

Q. When were you elected to that? A. Well, I think in September, 1935.

Q. Were you just one of the members of the Executive Council? A. No.

Q. Or were you chairman of it? A. No, I was just a member.

Q. Yes, how many members were there? A. I really don't know the amount of members that the council had at that time.

Q. What were your duties as a member of the executive council? A. Well, I didn't have very much else to do except to sit in on the meetings and listen to the

S. M. 726

council planning the membership drive and so on and after the meetings were over then we would go out and do what we had decided to do at the meetings, so far as organization was concerned.

*John F. Emler—For N.L.R.B.—Direct*

2035

Q. Would the executive committee formulate policies for campaign purposes? A. Well, yes, they would, they would explain what they thought we should do, not by writing or anything like that, but what they thought we should do on the following day or days and so on.

Q. Did you ever hold any other position in your organization? A. No.

S. M. 727

Q. What local did you belong to? A. Local 103, Brotherhood of Utility Employees.

2036

Q. Now, during this period of time, were you also a member of the employee representation plan? A. I was.

Q. Did you ever resign from it? A. I did not.

Q. Did you continue throughout your membership in the Brotherhood of Utility Employees as an active member? A. I did.

Judge Ransom: As an active member under the plan?

Mr. Mosecovitz: No, sir, as an active member of the Brotherhood of Utility Employees.

2037

A. Yes, I did.

Q. (By Mr. Mosecovitz) Yes. Did you at any time then become a member of any other labor organization?

A. Yes, I did.

Q. When was that? A. I became a member of the International Brotherhood of Electrical Workers in, I think, April, 1936.

Q. Yes. Did you hold office in the local? A. No.

Q. What was the local which you belonged to? A. Local B-752.

Q. Were you on any committee or committees? A.

2038

*John F. Emler—For N.L.R.B.—Direct*

S. M. 728

No, I was not.

Q. How long were you a member of the I.B.E.W.?

A. Well, I was an active member, I think, from the time I joined until the end of the year. That was 1936, at which time I took out a withdrawal card.

Q. That was after you had been discharged? A. Oh, yes.

2039

Q. You say that you were an active member of the local of the I.B.E.W. Was that activity the same as the activity which you have described as a member of the Brotherhood of the Utility Employees? A. Well, for a while.

Q. Did you do the same sort of thing? A. I was very active up until the time I was fired.

Q. What did you do, for instance? A. Doing the same thing, going around, explaining to the different fellows that I thought it was a very good idea of having an international organization behind us, that we could get further with that outfit than we could with the present or the previous organization before that.

2040

Q. Yes. Were you a member of the I.B.E.W. at the time you were discharged? A. I was.

Q. What was the date of your discharge? Did you say the 19th? A. I think it was the 17th or the 18th we were called in.

S. M. 729

Q. Was that the same time Mr. Kennedy was discharged? A. It was the same time, but I know that when we were called in we were not fired immediately. It took two or three days, that is why I am not positive whether it was the 17th or the 19th.

Q. Had you, during the period of time that you were

employed by the company, been disciplined because of bad work which you had done? A. Not to my knowledge.

Q. Your employment record with the company is one which shows increases in rating up until the time of your discharge. Is that right? A. That's right.

Q. But you never received any decreases in rate; is that right? A. Yes, that was during what they called the general cut, as they call it.

Judge Ransom: That was not a change in rating.

Q. (By Mr. Moscovitz) That was not a change in rating. It was simply a change in pay? A. Yes.

Judge Ransom: Shortening of hours and change in pay.

Q. (By Mr. Moscovitz) That was in 1933? A. I think so.

Q. And the reduction that you received in your pay

S. M. 730

at that time was given back to you at some later time. Is that right? A. Yes, I think a couple of different times.

Q. A couple of different times? A. Yes.

Q. Had you ever been approached by your boss and told that you were doing very good work—had you ever been singled out to do special assignments? A. No, not exactly.

Q. When you say "not exactly", do you mean that you had not been singled out for special assignment work, or that you did no special assignment work? A. Not unless you would call driving a truck a special assignment. I was assigned to that at one time, driving



2044

*John F. Emler—For N.L.R.B.—Direct*

a truck, when they were setting three-element meters in the Queens Company, and at that time I was called upon to drive a truck which I did. I held a chauffeur's license, which was paid for by the company at that time, and I drove that truck. I don't remember just how long it was.

Q. Now, before you became a member of the I.B.E.W. you served on an emergency committee appointed by the membership of the Brotherhood of Utility Employees, did you not? A. That's right.

2045

Q. And was that the committee which took up the case of the discharges of Mr. Wersing and Mr. Grulich?

S. M. 731

A. That's right.

Q. Did you hear the testimony of Mr. Kennedy? A. I did.

Q. Did you hear him testify about that committee and its work? A. I did.

Q. You served on that committee, did you not? A. I did.

Q. Throughout? A. Throughout.

2046

Q. Yes. And were you also a member of the strike committee which was the committee composed of the members of the emergency committee? A. I was.

Q. Did you hear Mr. Kennedy's testimony regarding the activity of that committee? A. I did.

Q. Did you serve on that committee throughout? A. Yes.

Q. Until such time as it was disbanded? A. That's right.

Q. Do you have anything further to add to the testimony given by Mr. Kennedy regarding the activities of the emergency committee? A. No.

S. M. 732

Q. Do you have anything further to add to the testimony given by Mr. Kennedy regarding the activities of the strike committee? A. No, I have not.

Q. Did you at any time after becoming a member of the emergency, the strike committee, and while the strike was still in effect, have any discussion with your foremen or supervisory, or the company supervisory employees, regarding your membership in the Brotherhood of Utility Employees? A. Yes, the group, the gang, rather, I would put it, along with the foreman, I was talking to the men in my gang and the foreman was also there, he was present.

2048

Q. Who was the foreman? A. A fellow by the name of John Langdon, or Langdonbalm, I don't know, I don't know just what name he uses, I understand that he uses two names.

Judge Ransom: Where was this and when, let's get that.

The Witness: Well, that was somewhere, I think, in Glendale, Long Island, the location I don't just remember now.

2049

Q. (By Mr. Moscovitz) What was the conversation, I understand this was after you became a member of the strike committee, is that right? A. No, this time that I am referring to now was after I became a member of the I.B.E.W.

S. M. 733

Q. I see, well, before you tell us about that, will you tell me whether or not you had any conversation with any superintendent or supervisory employee regarding your membership in the Brotherhood of Utility Employees? A. No, not that I can recall.

2050

*John F. Emler—For N.L.R.B.—Direct*

Q. And you say after you became a member of the I.B.E.W. you had some conversation with your foreman regarding your membership? A. Not exactly with the foreman, with the men, the foreman was present.

Q. Well, did the foreman participate in the conversation? A. Not very much, he listened in.

Q. Did he have anything to say? A. Yes, at that time he said, I think—

2051

Judge Ransom: I object to this, he does not identify the time or the place or the man.

Q. (By Mr. Moscovitz) Well, where was it at, you have testified that it was in Glendale, Long Island? A. It was in Glendale, but I think that I will have to admit that I am mixed up on your questioning, I am not straight on it.

Mr. Moscovitz: All right.

The Witness: Because it is a different union, the other union and the I.B.E.W. union and the employees representation plan, that is why I am sort of mixed up on just exactly the time you

2052 S. M. 734

mean.

Mr. Moscovitz: All right.

The Witness: When I was there and where I was:

Q. (By Mr. Moscovitz) Now, when you became a member of the I.B.E.W., that was as a result of the reorganization of the Brotherhood of Utility Employees, is that right? A. Yes, that's right.

Q. And the Brotherhood of Utility Employees was out of the picture after you became a member of the I.B.E.W., right? A. Yes.

Q. And you were at the time you became a member of the I.B.E.W. still a member of the plan, were you not? A. Yes.

Q. Now, after you became a member of the I.B.E.W.? A. Yes.

Q. Did you have any conversation with your foreman about your membership in the I.B.E.W.? A. No, that is where I think I was mistaken, when you refer to this foreman listening in I still think we weren't in the I.B.E.W. at that time.

Q. All right, now, do you know when it was that this foreman was listening in? A. Yes, previous to that, when we were thinking of striking and when this foreman said, "I think you fellows are making a very foolish move and if you do go out on strike, the I.B.E.W. will

S. M. 735

come in and scab on you and you will lose out altogether."

Q. That was in December, then, of 1935? A. Well, that was—

Q. While the strike vote was in existence? A. Yes, that's right, when the excitement was still on.

Judge Ransom: I move to strike out the answer, it is wholly unidentified, the person is wholly unidentified, it is not shown who he was or what he was or what authority he had.

Q. (By Mr. Moscowitz) Well, was this man a foreman of your gang? A. He was.

Q. What gang was that? A. Well, they call it Langdon gang, they called the gang Langdon gang, they call it, whatever the foreman's name is, why, that is the name of the gang.

2056

*John F. Emler—For N.L.R.B.—Direct*

Q. How did you work and how long did you work in Langdon's gang? A. Oh, it must have been, I'll say eight months or a year, something.

Q. And where were you working at the time he made that statement? A. I think it was in Glendale, Long Island, somewhere out there, I was not familiar with that section of the city, so therefore I don't know for

S. M. 736

sure.

2057

Q. Do you know what job you were working on at that time? A. No, I could not say.

Judge Ransom: Did he have power to hire and fire?

The Witness: Not that I know of.

Judge Ransom: I move to strike out the conversation.

Trial Examiner Gates: It may stand.

Judge Ransom: Exception.

Q. (By Mr. Moscovitz) Did you have any other conversation with any other foreman or with the superintendent at any time after you became a member of the I.B.E.W.? A. No.

2058

Q. Or before you became a member of the I.B.E.W.? A. No.

Q. All right. Tell us what happened on the day of your discharge. A. Well, I was working on the job outside of Flushing, Long Island, when a man by the name of Mr. Tom Green came to the job and as I was in the cellar at the time driving out pipe for an underground service to a house and the man that works in, or he did work in that gang, as the chauffeur, he came over to the window and he says, "You are wanted outside." I came outside and the foreman, Mr. Langdon, says, "Mr.

*John F. Emler—For N.L.R.B.—Direct*

2059

Green wants to see you." I went over to Mr. Green. He was sitting in a Chevrolet car and he handed me this

S. M. 737

envelope and I opened it and it contained a note directed, directing me to go to the personnel bureau, Long Island City. So I immediately took off my overalls and put away my tools and my belongings and my pliers and so forth and I went down.

Q. Whom did you see? A. I saw a fellow by the name of Mr. Paine.

2060

Q. Did you have to wait to see him? Did you see him right away? A. Yes, I saw him right away.

Q. What took place when you saw him? A. Well, he said, "You are a surplus employee and the company will have to let you off, but we will also give you a chance to go over to Manhattan," he said, "just what the job is over there I couldn't tell you, but you will have to go over there yourself."

So I asked him why did this come up. I said that I didn't like the idea, I says, "I know whenever I will go over there I will be lowered down most likely, that is, my wages will be lowered." And I didn't like the idea of even going over there. In fact, I wasn't going to go over there until I was standing outside looking at this piece of paper that the man handed me and along came Mr. Kennedy and asked me what it was all about and I told him that I didn't know if I should go over there or not, but he said, "Don't be foolish. Go over and see what it is all about."

2061

S. M. 738

But in the meantime I told Mr. Paine I didn't think it was fair for the company to treat me so dirty, and he said, "Why?" And I said, "Well, for this reason, you



2062

*John F. Emler—For N.L.R.B.—Direct*

realize I was only a young man when I started here, only 27 years old, and I pretty old now, if you figure the age, and it is going to be tough on me to go out now and look for a job because I am that much older, 36 or 37 years old. That is an old man.

2063

And he said, "Well, you don't look old. You look as if you could get a job," and I figured, what is the use of talking, after all, it is just a job with him, and after awhile I realized he wouldn't do nothing for me, and I took his advice and walked out and took the paper he gave me with the address on it for the place in New York and I waited outside and Mr. Kennedy come out in a little while, and there was another man, Mr. Baake, with him, and we all went over together.

Q. Before you tell me about going over there, will you tell me whether or not you discussed with Mr. Paine the question of seniority? A. No, I did not.

Q. Do you know whether or not—first, tell me this, how many first grade linemen were there in your division? A. Well, let me see, probably 50 or 60, I am not positive, I really don't know just the amount.

2064

S. M. 739

Q. Did you work in the same group that Mr. Kennedy did? A. No.

Q. You did not? A. I worked on another truck.

Q. Sir? A. On another truck.

Q. On another truck? A. That's right.

Q. Did you come within the same division? A. I did.

Q. There were two divisions, weren't there? A. Yes.

Q. What were they? A. One in Jamaica, one in Elmhurst.

Q. Were you in the Jamaica one? A. I was in the Elmhurst.

Q. In the Elmhurst? A. Yes.

Q. You say there might be 50 or 60 in yours? A. Yes, maybe more or less.

Q. More or less? A. Yes.

Q. Will you tell me whether or not you had worked longer or had more seniority than other first grade linemen in your division? A. That I could not say.

S. M. 740

Q. Well, did you know any men working as first grade linemen who had worked for the company a lesser period of time than you? A. I did not.

2066

Q. Do you know of any who had worked a longer period of time than you? A. Oh, yes, many of them.

Q. Do you know how many? A. No.

Q. Would you say all of them had? A. Yes, I would say they all had. I have no way of knowing.

Q. Well, do you know? A. I never asked the fellows when they were hired, so I don't know, whether they had a longer record or a shorter record, that I couldn't tell you.

Q. You couldn't say. All right. Tell me, then, what happened when you went over to this place with Mr. Kennedy? I might ask you one more question before you go into that. Were you taken from a particular job when you were discharged? A. A particular job?

2067

Q. Yes. Was the job that you were working on a finished job, were you finished with the job or were you in the middle of a job, or what? A. We were just beginning.

S. M. 741

Q. Just beginning a job? A. Yes.

Q. What job was that, do you recall? A. Oh, I couldn't say where the job was located. As I said I was not familiar with that territory in that part of the city.

2068

*John F. Emler—For N.L.R.B.—Direct*

Q. I say, what was the job? A. Oh, we were attempting to install service for a private dwelling.

Q. And you had just started it? A. Yes, we were just started, digging the trenches and driving the pipe and so on, that is, the gang.

Q. Do you know how long that job would have taken? A. Oh, possibly a week.

Q. Yes. And do you know whether or not another person was put in your place to do your job? A. Oh, yes.

2069

Q. Do you know who it was? A. I do not.

Q. Do you know whether or not there was an increase in the number of days worked by the men in your division after you were discharged? A. I couldn't say as to that for certain, but I can say that when I went back to get my overalls and belongings, off the truck, there was another man in my place.

S. M. 742

Q. Had you ever seen him before? A. I did not. I don't know where he came from and didn't ask.

2070

Q. So far as you know he was a new man? A. To me he was, I don't know where he came from.

Q. What happened when you went over to this other place with Mr. Kennedy after you left Mr. Payne's office? A. Well, we met a fellow that I really couldn't say now if I remember his name. I think it was Anderson. I think it was, I am not positive.

Q. Where was he? A. Down at #4 Irving Place.

Q. Is that the company's office? A. Yes.

Q. Did you see him? A. I did.

Q. Was he alone or was he with Mr. Kennedy? A. Well, the first day we sat and waited there all afternoon and they told us that this fellow wasn't there or some-

thing like that, but that we were to go and come back the next day.

Q. Did you go back the next day? A. Yes, we went back the next day.

Q. Did you work some more? A. Yes.

S. M. 743

Q. Or did you see him? A. No. We waited some more.

Q. You and Mr. Kennedy? A. Myself and Kennedy and a fellow by the name of Bakke.

2072

Q. Did you finally see the man you were supposed to see? A. Yes, Kennedy saw him and I saw him.

Q. Who was that? A. I think the man's name was Stohl. I am not positive.

Q. Do you know what his job is with the company? A. I do not.

Q. Is he a personnel man? A. I couldn't say.

Q. Do you know what floor he is on in the company's office? A. I am positive he was in the building, but I don't know what floor.

Q. Was he the man that you were sent to see? A. Well, this man Anderson I think it was sent us up. I think it was to see him.

2073

Q. Well, did Mr. Payne send you to see him? A. Not to see him, he didn't mention that name.

Q. He did not mention any name, is that it? A. Well, he may have but I could not remember just whose it was.

Q. All right, what took place when you saw him? A. Well, when I went in this fellow asked me what experi-

S. M. 744

ence I had on switch boards.

2074

*John F. Emler—For N.L.R.B.—Direct*

Q. Switch boards? A. Switch boards and circuit breakers.

Q. What do you mean switchboards, being a switchboard operator? A. Switchboard work, I don't know what that is, I couldn't tell you.

Judge Ransom: He doesn't mean an operator.

Mr. Moscovitz: Yes.

2075

The Witness: It is a switchboard, switchboard work, circuit breakers, installing circuit breakers and different things like that and I said I was not, I said I had been a lineman as far as I had gone and I don't know anything about that kind of work.

2076

Q. What did he say? A. Well, he said, he mentioned something about helpers, or something like that, that there was a terrible lot of helpers came over there and that he had put to work and he said he did not even have a helper's job and therefore he had nothing then to offer me because I could not do switchboard work, circuit breaker work, et cetera. He was filled with helpers and he could not offer me nothing, so there was nothing left for me to do but go back to Long Island City and then he laid off, fired.

Q. Did you go back? A. Yes.

S. M. 745

Q. Who did you see? A. Mr. Payne.

Q. What did you report to him? A. There wasn't much, I just told him that we did not make out over there and we came back for our money, and he gave us our checks when we turned in our identification card and that was all there was to that.

Q. Had you ever worked on any of the jobs that this man offered or discussed with you when you went out

to see him at Irving Place, had you ever done that kind of work? A. No, I did not do that kind of work.

Q. You didn't know anything about it, did you? A. I didn't know the first thing about it.

Q. Did you ever do work of that sort? A. He asked me if I knew how to do it.

Q. Was it temporary work or permanent work? A. Well, I am not positive whether he said it was permanent or what it was at that time.

Q. Did Mr. Payne have anything to say to you at all when you got back? A. No, not anything that I recall now, I don't remember.

Q. And is that the last day then that you worked for the company? A. That's right.

S. M. 746

Q. And how long were you out of work, for any period of time after that? A. Yes, up until, I think it was, September. As it was stated here before Mr. Kennedy called up the local and they in turn called up a man by the name of Michael Wagner and he in turn came down to my home from where he lived in Maspeth and he told me to go down to Long Island City, it concerned a job.

Q. All right, now, you say that was in September? A. I think it was, I am not sure.

Q. 1936, is that right? A. Yes.

Q. Now, between the time that you were discharged and September of 1936 did you have employment elsewhere? A. No.

Q. Now, to whom did you report in September? About this job that Mr. Kennedy testified about? A. Mr. Smith.

Q. Mr. Smith? A. I think Mr. N. B. Smith.

Q. Where did you see Mr. Smith? A. The personnel bureau, I think, in Long Island City.



2080

*John F. Emler—For N.L.R.B.—Direct*

Q. That is the New York and Queens? A. The New York and Queens Electric Light.

Q. What did Mr. Smith tell you? A. He told me that

S. M. 747

the New York Dock Company had called him up and told him that they needed some linemen, that if he knew of any, to send them over, and he said he thought of us fellows that were laid off and he called up Kennedy and he did not ask me how I came down there or anything, he just said, "Would you accept a job?"

2081

I said, "Well, as I am not working, and I have a wife and a couple of kids, and I could use the money, and so therefore I will accept the job."

He said, "Do you think you can qualify for it?"

I said, "I think so, sir."

He said, "All right, if you qualify for the job, you will receive 75 cents an hour, 40 hour week, which would mean \$33.00 a week", and he then further stated that, "You can readily appreciate the embarrassing position it would put this company into if and when you receive, if you get that job over there, and started any funny business over there."

2082

I did not answer him on that, I did not say aye, yes or no, that was the end of that, and then I went over and I qualified for the job and I accepted the job and I still have that job over there with that company.

Q. At that rate of pay? A. No, it means a little more right now, we had a raise since that time.

Q. When did you get the raise? A. Oh, about four

S. M. 748

weeks ago, I think.

Q. What are you getting now? A. Well, when we

*John F. Emler—For N.L.R.B.—Direct*

2083

signed a petition for some more money, why they gave us, they stretched the week, they made it a 44 hour week, which meant going to work Saturday a half a day and we also asked for time and a half overtime and an increase in the hourly rate and they gave us the added, they added the time to the week which meant 44 hours and it was at 5 cents an hour increase, and they did give us time and a half for overtime, which means I get \$35.20 a week for a 44 hour week over there now.

Q. What company is that? A. New York Dock Company, I think it is, 360 Furman Street, or something like that, 334, I don't know, it is one of the two, they could be reached by both addresses.

2084

Q. Is your employment there temporary or permanent, do you know? A. As I understand it is permanent.

Q. Are you desirous of going back to work for this company? A. Yes.

Mr. Moscovitz: That's all.

Trial Examiner Gates: We will recess until ten o'clock tomorrow morning.

(Whereupon an adjournment was taken at 5:00 o'clock P.M., June 15th, until 10:00 A.M., June 16th.)

2085

2086

**Minutes of Hearing, Held June 16, 1937**

S. M. 749

**BEFORE THE  
NATIONAL LABOR RELATIONS BOARD  
SECOND REGION**

IN THE MATTER  
of

2087 CONSOLIDATED EDISON COMPANY OF NEW  
YORK, INC., and its affiliated companies,  
BROOKLYN EDISON COMPANY, INC.,  
NEW YORK & QUEENS ELECTRIC LIGHT  
& POWER COMPANY,  
WESTCHESTER LIGHTING COMPANY,  
THE YONKERS ELECTRIC LIGHT AND  
POWER COMPANY,  
NEW YORK STEAM CORPORATION,  
CONSOLIDATED TELEGRAPH & ELECTRIC  
SUBWAY COMPANY,

*Respondents,*

and

2088 UNITED ELECTRICAL AND RADIO WORKERS  
OF AMERICA, Affiliated with the COMMITTEE  
FOR INDUSTRIAL ORGANIZATION.

Case No.  
11-C 224

14 Vesey Street,  
New York City, N. Y.,  
June 16, 1937.

The above-entitled matter came on for hearing pursuant to adjournment taken June 15, 1937, at 10:00 o'clock A. M.

Before:

ROBERT M. GATES, Trial Examiner.

## Appearances:

DAVID A. MOSCOVITZ, Esq., Attorney for the National

S. M. 750

Labor Relations Board.

WILL MASLOW, Esq., Attorney for the National Labor Relations Board.

LOUIS B. BOUDIN and SIDNEY ELLIOTT COHN, 8 West 40th Street, New York, N. Y., appearing for United Electrical and Radio Workers, Local 1212.

2090

MESSRS. WHITMAN, RANSOM, COULSON & GOETZ, 40 Wall Street, New York City, N. Y. (By William L. Ransom, Jacob H. Goetz, and Pincus M. Berkson, of counsel), appearing specially for the respondent companies, reserving all objections to jurisdiction.

S. M. 751

## PROCEEDINGS

Trial Examiner Gates: The hearing will come to order, please. 2091

JOHN F. EMLER, resumed the stand.

*Cross Examination:*

Q. (By Mr. Ransom) Where did you work before you came to the New York & Queens Electric Light & Power Company, what were your previous jobs? A. As near as I can remember, I think it was the Ferguson Construction Company or the Conkin Construction Company, I think that is it.

2092

*John F. Emler—For N.L.R.B.—Cross*

Q. You did work for the Ferguson Construction Company in Cleveland? A. Cleveland, Ohio.

Q. In what capacity? A. Well, a laborer, in the building trade.

Q. What happened to that job? A. Well, as a rule, when they finished the job you were laid off.

Q. Were you laid off? A. I was.

Q. Then you went to work for the Conkin & Conkin Construction Company? A. I don't remember.

2093 S. M. 752

Q. You don't remember? A. No, I know I worked for those two, whether it was after that or before that, I couldn't say.

Q. Well, were you laid off of that job, too? A. Yes, sir.

Q. Before that, you had been a farmer? A. That's right.

Q. As a member of the executive committee or executive council of the Brotherhood, you were active in these various matters to which you have testified and to which others have testified? A. I was.

2094

Q. Your name was from time to time published in the newspapers as a member of the executive committee of the Brotherhood? A. I think it was mentioned in the public newspapers at one time that I remember.

Q. And also appeared in the leaflets and magazines gotten out by the Brotherhood? A. I don't remember it having occurred in leaflets, it may have been in The Live Wire or one of those publications of the union.

Q. What about The Tower Man? A. I don't think my name was ever in that, that I know of.

Q. You wouldn't say that it wasn't published from time to time in The Live Wire? A. It could have been, yes.

S. M. 753

Q. Now, when you had this conversation in the personnel bureau about going over to Manhattan to see whether there was work on which you could be used there, you went over with Mr. Kennedy? A. Yes, and one other man, William Baake.

Q. Yes, and Mr. Paine—Mr. Paine then or at any time didn't tell you that you had been discharged? A. He told me as far as it was, I could be laid off right then and there, or that I could have my choice of going over there, as I testified yesterday to see what it was about, he didn't exactly know what it was over there.

2096

Q. But he told you that they might have a job over there if you could qualify? A. He did not.

Q. He didn't? A. No.

Q. Well, you didn't accept any, or indicate that you wanted to accept any, employment that they had in Manhattan? A. I took his advice, I took the slip, the piece of paper that he handed me and went out, and he stated that I should go.

Q. When you got over there, did you want a job in Manhattan? A. I sure did, if it was anything like my job was over there, if it paid anything like my job paid.

2097

S. M. 754

Q. Well, did you consider that any job was offered you of the kind for which you were qualified? A. There was no job offered me.

Q. Well, the job that he talked to you about, did you consider yourself qualified for it? A. I was not qualified for any of the jobs that he had mentioned, and he said that he had had enough helpers and he could not possibly put any more helpers on the job, whatever the job was.



2098

*John F. Emler—For N.L.R.B.—Cross*

Q. When you got word to come in to see Mr. Smith about a possible job with another company, can you fix again the time about when that was? A. Well, I couldn't fix the date, but I think it was somewhere around the noon hour.

Q. Well, what month? A. I think it was in September.

Q. September, 1936? A. Yes.

Q. And Mr. Smith told you that he knew of a concern which wanted linemen? A. He did.

2099 Q. And that if you wished to do so, you could go and see whether you could qualify for the job and get it? A. He said that if I qualified for the job, that it was mine.

Q. There were jobs open? A. Yes.

S. M. 755

Q. With that concern? A. Yes, that's right.

Q. And you went and obtained the job? A. I did.

Q. You understood that you were a surplus employee and had been laid off as such; didn't you? A. Well, I could never understand how it was. I was told that. I couldn't make that out.

2100 Q. Well, you understood it too, didn't you? You understood that was the situation; didn't you? A. I did not understand it.

Q. I see. A. I was just told I was a surplus employee, but I never did understand it and I don't yet.

Well, after you had worked for the New York Dock Company for a while, you wrote Mr. Smith; didn't you? A. I did.

Q. And that was with reference to your conditions of employment with the New York Dock Company? A. Yes.

Q. And with respect to the possibility of your being put to work by the New York & Queens? A. That's right.

*John F. Emler—For N.L.R.B.—Cross*

2101

Q. And is this your letter? (Showing witness a

S. M. 756

paper.) A. That is the letter I wrote.

Judge Ransom: I offer it in evidence.

Mr. Moscovitz: No objection.

Trial Examiner Gates: It may be admitted.

(Document referred to received in evidence and marked Respondent's Exhibit No. 5, Witness Emler.)

2102

Q. (By Judge Ransom) You were in a department in which before the termination of your employment, there was put in force the system of rating employees on their work? A. I don't understand just what you mean.

Q. Well, rating the employees according to their ability and attendance record and production and so on, their rating of their work? A. Well, if that was in existence, I didn't know about it.

Q. I see. A. I was just called upon to do certain duties, and I did them to the best of my ability.

Judge Ransom: I will ask to have marked for identification at this time the employee rating card of John F. Emler.

2103

(Document referred to was marked Respondent's Exhibit No. 6 for identification, Witness Emler.)

Q. (By Judge Ransom) Your work was in the distribution department of the company, was it not? A. Yes.

S. M. 757

Q. And in the Elmhurst Division? A. That's correct.

2104

*John F. Emler—For N.L.R.B.—Cross*

Q. And what territory did the Elmhurst Division cover? A. Well, I couldn't speak of the territory. It took in a lot of ground.

Q. Well, did it take in Long Island City? A. It took in Long Island City.

Q. Corona? A. Corona, Maspeth.

Q. College Point? A. College Point, Ridgewood, Bay-side, I think—several other towns out in the Island that I don't remember.

Q. Flushing? A. Flushing.

2105

Q. Well, it was a part of what is called, if you know, the Third Ward of the Borough of Queens or, if you don't know, never mind. A. I couldn't say.

Q. But your work was in the distribution department in that area? A. That's correct.

Q. And I think you said that at or about the time of your discharge or lay-off you had been engaged in installing services on consumers' premises? A. That is correct.

Q. And that was a regular part of your work as line-

S. M. 758

2106

man? A. Well, as a lineman that was not part of our work but, we, as linemen, were considered that we had to do that kind of work when they asked us to do it.

Q. And that involved the putting in of the electric wires in connection with either an underground or an overhead connection for the street lines into consumers' premises? A. Yes, digging trenches and driving in pipes, after the completion of that, pulled in the services, splice them, "E" boxes and "R" boxes, junction boxes in the cellars, etc., and taking down of services, overhead services, rather, on the underground connections were completed.

*Michael A. Wagner—For N.L.R.B.—Direct*

2107

Q. And that was the type of work you were doing at the time? A. That's what I was doing, I think that was new work, I think new dwellings were being built.

Q. And you were doing that kind of work in, did you say, the Glendale region? A. Somewhere in the Glendale locality, well, Glendale, Ridgewood, all over, I think at that time we were out in the outskirts of Flushing.

Q. But you were doing that type of work? A. On that.

Q. On new residences that had been recently constructed? A. At the time of my discharge, yes.

2108

Judge Ransom: That's all.

Trial Examiner Gates: That's all.

(Witness excused.)

S. M. 759

Mr. Moscovitz: I will call Mr. Wagner.

MICHAEL A. WAGNER, called as a witness for the National Labor Relations Board, being first duly sworn, testified as follows:

2109

*Direct Examination:*

Q. (By Mr. Moscovitz) Where do you live? A. 6050—65th St., Maspeth.

Q. Long Island? A. Long Island.

Q. Were you at one time employed by the Consolidated Edison System? A. I was.

Q. What company? A. New York & Queens Electric Light & Power.

Q. When did you first go to work for that company? A. July 23, 1929.

2110

*Michael A. Wagner—For N.L.R.B.—Direct*

Q. In what capacity? A. First rate clerk, I started.

Q. Where was the office? A. Long Island City, Bridge Plaza.

Q. What was your salary? A. \$27.

Q. How many hours a week? A. 38.

Q. How long did you work at that job? A. You mean

S. M. 760

the job that I started in as?

Q. Yes. A. About a year, I should say.

2111

Q. During that year's time, did you have any increases in pay? A. Yes.

Q. When did you get an increase? A. Around February, 1930.

Q. In what amount? A. \$2.00.

Q. And at the end of the year on the job that you first started on, were you transferred or promoted to a different job? A. Merely assigned new work.

Q. Did you get a new classification? A. No.

Q. A new title? A. No.

Q. The same title? A. Yes.

2112

Q. What was the new assignment work? A. It was different accounting work.

Q. And did that bring with it more money? A. No.

Q. The same amount? A. That's right.

S. M. 761

Q. What was this accounting work that you were doing? A. I prepared the authorized fixed capital expenditure report.

Q. Were you the only person in your department who worked on that report? A. Yes, that is in the figures.

Q. You did the full compilation, is that correct? A. Yes.

Q. Who had been doing that work before you? A. You want the name?

Q. Yes. A. Herbert J. Roedel.

Q. What happened to him? A. He left the company and went to the police department.

Q. Do you know how long he had been doing that work? A. Approximately a year.

Q. And was there a breaking-in period before you were permitted to assume those new duties under that new assignment? A. Yes.

Q. How long did you break in? A. It wasn't exactly a period. That was a full monthly report, and from month to month I participated in the preparation of it.

2114

Q. When you say "month to month," you participated in the preparation of it, you mean after you assumed your new responsibilities? A. No, before.

S. M. 762

Q. While doing that, you were being broken in, is that it? A. That's correct.

Q. And after being broken in and assuming the new responsibility, you then worked upon it alone in the compilation. Is that correct? A. That is correct.

2115

Q. Did you find that that took up your full month's time? A. No.

Q. What was your other duties? A. Participated in what we term the clearance.

Q. What was that? A. The compiling of monthly figures and fixed capital and retirement.

Q. And anything else? A. Well, those two took up most of my time. I don't know if you are referring just to the first year, now, that I am with the company, or throughout the— A. No, I am just referring now to the period immediately after you got this new assignment which you said took place one year after you started. Is that right? A. Right.



2116

*Michael A. Wagner—For N.L.R.B.—Direct*

Q. How long were you engaged in that work? A. About two years.

S. M. 763

Q. Yes. And during that period of time, did your title remain the same? A. It did.

Q. And did your salary remain the same? A. No, I received an increase.

Q. When did you get the next increase? A. About March, 1931.

2117

Q. That was in what amount? A. \$3.

Q. So that your salary at that time was what? A. \$32.

Q. And during that two-year period, you were doing the same work as you have already described, is that right? A. Yes.

Q. And you assumed no other duties during that period of time other than those described by you; is that right? A. With a possible additional report.

Q. I see, but nothing of any permanency? A. No.

Q. Now, after the expiration of those two years, did you get a change in title? A. After those two years, yes, I received the title of Accounting Assistant.

2118

Q. Now, was that your next step in the employ of the company? A. Yes.

S. M. 764

Q. And was that in the nature of a promotion; do you know? A. Well, it was in the nature of a monetary promotion, but not in duties.

Q. Was it a reclassification which resulted in more money? A. It was—not the \$3. one.

Q. Well, which one are you now referring to? A. The \$3. one, that brought me up to \$32.

Q. You have already testified about that? A. Yes.

*Michael A. Wagner—For N.L.R.B.—Direct*

2119

Q. Now, after that, did you receive another increase?

A. Yes, I received an increase of \$3.83 per week accompanied with 16 weeks' back pay, totaling \$61.28.

Q. When was that? A. That was, I received that in November of 1934.

Q. And what was the back pay for? A. Well, during, or about July 15th, there was a reclassification of titles.

Q. 1933? A. 1934.

Q. All right. A. And I was omitted from that reclassification as of July 15th, and in November, 1934, they evidently decided that I was overlooked or something like that, and they changed my title to that of Accounting Assistant, first grade, together with this 16 weeks' back pay.

2120

S. M. 765

Q. Now, at that time what was your title? A. Accounting Assistant, first grade.

Q. Well, you say that brought with it no new assumption of responsibilities? A. Not at that time, but prior to that my work was assigned to preparing the Public Service Commission report.

Q. When was that? A. That was; oh, I should judge, about six months before I received the reclassification.

2121

Q. And what was that particular job? A. Well, that particular work involved the preparation of expenditures affixed capital and the retirement of fixed capital throughout the company and it was a monthly report that I prepared.

Q. Did you continue doing that during the period of time that you were employed by the company? A. I did.

Q. And that monthly report went along with the other work that you have already described? A. The fixed capital, the authorized fixed capital report was assigned to some one else.

2122

*Michael A. Wagner—For N.L.R.B.—Direct.*

Q. I see, and this, then, took up practically all of your time, is that right? A. Except for the clearance.

Judge Ransom: Except what?

S. M. 766

Mr. Moscovitz: For the clearance.

Judge Ransom: All right.

The Witness: And some special reports that were assigned to me from time to time.

2123

Q. (By Mr. Moscovitz) Did you work on that job alone? A. I did.

Q. And did you have to go through a breaking-in period before you were permitted to assume the sole responsibility for that job? A. Similar to the other case, yes.

Q. How long was the breaking-in period? A. Oh, I should judge about two or three months.

Q. How long did you work on that job? A. Until I was laid off, which was a period of about three or four years.

2124

Q. When was the date when you last worked for the company? A. November 29, 1935.

Q. And were there any other duties that you assumed during that period of time up to the date of your discharge, or up to the date that you were last employed by the company? A. No other duties except what I outlined.

Q. All right, and were there any other increases in salary? A. No.

Q. So that when you were last employed you were receiving what? A. \$34.50.

S. M. 767

Q. And was that for the same number of hours that you have already stated? A. No.

Q. What were the hours? A. 35 hours.

Q. Did you, during the period of time that you were employed by the company, ever do special work for the company in addition to regular duties that you have described? A. Yes, I did, on one occasion I accompanied the chief of the bureau to the Brooklyn Edison Company for the purposes of consultation over the fixed, authorized fixed capital, and expenditure report.

Q. Can you fix that time? A. About 1932.

Q. Was that an assignment which you handled once, or did you do the same thing any other time? A. At other times I was sent over to the New York Edison Company, at that time I went alone for the purpose of ascertaining the treatment that they made on the account 7-99, unfinished construction.

2126

Q. When was that? A. About six months before I was laid off.

Q. Yes, and at whose request did you do that? A. Mr. Merton's.

S. M. 768

Q. Who is he? A. Chief of the Work Orders, incidentally, his title then was changed to Accountant in the bureau.

2127

Q. Is he your supervisor? A. He was one of my supervisors.

Q. Do you remember his first name? A. John R.

Q. Who were your other supervisors? A. Well, at the date of the termination?

Q. That's right. A. My immediate supervisor was Joseph O'Brien, who was my clerk in charge; then above him was Henry Eller, chief of the division, and then Mr. Mehrtens, then Mr. Hausenbauer, in charge of the department.

2128

*Michael A. Wagner—For N.L.R.B.—Direct*

Q. Were there any other special assignments handled by you in the six months' period preceding the date you were last employed by the company? A. I am not exactly sure of the date, but I believe this may come under it. At the time that the New York & Queens Electric Light & Power Company was negotiating for what I believed to be a \$25,000,000. loan, I was requested to participate in the preparation of the compilation of a report to determine the exactness of the unfinished construction account, 7-99. That was because of my ability and experience with the treatment and recording of fixed capital expenditures and retirements.

2129

S. M. 769

Q. Did you work on that? A. I participated in that, yes.

Q. For how long? A. That involved about four days. That was a special report and necessitated working overtime one or two nights.

Q. Did that fall within the six months' period that I asked you about? A. I cannot definitely say.

Q. Around that period? A. Around that time.

2130

Q. Were there any other special jobs that you can recall? A. I don't recall any off-hand.

Q. When you were last employed by the company, Mr. Wagner, were you married? A. No.

Q. Were you by any chance the head of a family? A. Yes, I was.

Q. A family of how many? A. Just my mother.

Q. During that employment period, had you ever been demoted in any respect? A. No.

Q. Or called in before your supervisor or any other supervisory employee for discipline? A. No.

S. M. 770

Q. Have you ever been laid off? A. No.

Q. Have you ever been discharged for any reason?

A. No.

Q. During that same period, had you ever been called before your supervisor or any other supervisory employee and commended for any job or jobs that you were or had been working on? A. Yes.

Q. If you will give us the names and the time. A. I was recommended by Mr. Hausenbauer to the then secretary, Mr. Malone, to assume the supervision of a newly-created division because of taking in the Hollerith Machines, tabulating machines.

2132

Q. When was that? A. That was about 1932.

Q. And what was the new department? A. I don't recall what the heading of the division was.

Q. Who was Mr. Hausenbauer? A. He is now, to the best of my knowledge, auditor of the New York & Queens Electric Light & Power Company.

Q. What was he there? A. He was the accountant of the bureau.

Q. When you say the accountant, do you mean the accountant? A. The man in charge, in charge of the en-

2133

S. M. 771

tire bureau.

Q. In charge of how many men? A. Well, I should say about 75 or 80 people, including women.

Q. What was the name of that bureau? A. The Fixed Capital Bureau.

Q. Yes, and that is the bureau that you worked in?

A. That is correct.

Q. And the number that you have just given is the number of employees in the bureau when you were last



2134

*Michael A. Wagner—For N.L.R.B.—Direct*

employed? A. I don't know exactly, or with any accurate knowledge the number of employees because his jurisdiction extended over divisions that were not in the same office, not in the same building.

Q. Were you part of that division? A. I was.

S. M. 772

Q. Even though it extended into other buildings not in the same office? A. That is right.

2135

Q. Well, how many persons were there in your Bureau in your building? A. About 40.

Q. Did you have any idea of how many there were in other buildings which came within the same Bureau? A. I guess about 35 or 40 also.

Q. All right. Now, who was Mr. Malone, to whom Mr. Hausenbauer recommended you? A. Mr. Hausenbauer recommended me to Mr. Malone who was the secretary of the New York and Queens Electric Light and Power Company.

Q. Did you see Mr. Malone? A. No, Mr. Hausenbauer made the recommendation himself.

2136

Q. And was the recommendation approved? A. No, it was not approved.

Q. Was someone else given the job? A. A woman was given the job.

Q. Were there other applicants in the field, do you know? A. No, I don't know.

Q. And the gentleman who recommended you was your immediate superior, is that right? A. Well, not my immediate, but the head of the bureau.

S. M. 773

Q. Head of the bureau? A. That's right.

Q. But it was your work that was turned in to him?  
A. That's right.

*Michael A. Wagner—For N.L.R.B.—Direct*

2137

Q. So he was in the position to judge what kind of work you had been doing, is that right? A. That is correct.

Q. Had you received any other commendations or recommendations from other supervisory employees at any other times? A. I did not finish that one.

Q. Oh, I am sorry. A. Not only was I recommended but I was given the material on that new position that was being created, given the material and requested that I study it and look it over, which I did. I took it home and studied it and looked it over and was told that Mr. Hausenbauer, that is, he told me that he was making the recommendation, that is all that I know.

2138

Q. All right now, are there any other incidents of recommendations by supervisory employees of the company that you recall? A. This was the recommendation made by my chief clerk who was my chief clerk when I was discharged, but it was supposed to be on the Q.T.

Q. What do you mean on the Q.T.? A. Well, I was not supposed to know anything about it so perhaps we

S. M. 774.

had better leave that out, it was a proposed advancement.

2139

Q. Well, did you know about it, did you? A. I did know about it.

Q. All right. Who is your supervisor? A. Mr. Eller.

Q. What was his first name? A. Henry Eller.

Q. What was his job? A. He was chief of the work order division.

Judge Ransom: Would it be possible to fix any of these dates somewhat?

Mr. Moscovitz: Yes, I will try and fix them.

Q. (By Mr. Moscovitz) And how many men did he have under him? A. About 15.

2140

*Michael A. Wagner—For N.L.R.B.—Direct*

Q. And when was it that he made—did he recommend you for a different job? A. No, he didn't make recommendations.

Q. Was he contemplating making it? A. It was not in his power to, for the final word.

Q. Well, what was— A. In other words, it came down from the accountant.

Q. What was it that he was going to do on your behalf? A. He was not going to do anything, but he did

2141 S. M. 775

get this from the accountant.

Q. Who was the accountant? A. Mr. Merton.

Q. I see, when was that? A. That was about eight months before I was laid off.

Q. And what was it that was going on regarding you? A. Mr. Eller told me that I was being considered for an advancement to a clerk in charge of the retirement section.

Q. Was that section within your bureau? A. It was.

Q. Who was holding the job at that time? A. Mr. John J. Daley.

2142 Q. Was Mr. Daley holding the job at the time you were last employed? A. Yes.

Q. And is that job in direct line of succession from the job that you hold? A. It can be.

Q. It can be? A. Yes.

Q. Were there any persons in line between yourself and that gentleman for that particular job or is it something that other persons too would be considered for ordinarily, do you know? A. This is just what I believe,

S. M. 776

now, I believe that there was not anyone else in line

*Michael A. Wagner—For N.L.R.B.—Direct*

2143

from a standpoint of accounting, training, ability and seniority.

Judge Ransom: I move to strike out the answer as not responsive or informative, it is perfectly obvious—

Trial Examiner Gates: The motion to strike is granted.

Q. (By Mr. Moscovitz) Were there any other incidents that you can recall where you were either commended or the subject of recommendation? A. I believe that is all I can recall.

2144

Q. Now, when you first went to work for the company, Mr. Wagner, did you belong to any labor organization? A. No.

Q. What was the first labor organization that you became a member of after going to work for the company? A. I guess the E.R.P., Employees Representation Plan.

Q. When was that, do you recall, 1934? A. Either 1933 or 1934.

Q. Did you hold any office in that plan? A. I did not.

Q. Just a member? A. Just a member.

2145

Q. Were you active or inactive as a member? A. Well, I can't say, I can't say I had an opportunity to be active except as to elections.

Q. After becoming a member of the Employees Representation Plan—did you become a member at any time of

S. M. 777

the Independent Brotherhood of Utility Employees? A. I did.

Q. Was that the next labor organization that you became affiliated with? A. Yes.

2146

*Michael A. Wagner—For N.L.R.B.—Direct*

Q. Do you recall when that was? A. About April, 1934.

Q. And when you became a member of that organization, was the local of that organization already in existence, or were you one of those who formed the local? A. I was one of those who formed the local.

Q. Yes, were you one of those who worked with Mr. Wersing and Mr. Grulich in the organization of the local? A. Yes.

2147 Q. Were you active in organizational activity? A. Yes, I was.

Q. Did you attempt to secure membership? A. I did.

Q. Did you become an officer of the local? A. Yes.

Q. Do you recall when that was? A. February, 1935.

Q. What was your office? A. Secretary-Treasurer.

S. M. 778

Q. And was that the office that you held when you were last employed by the company? A. No, it was segregated to treasurer, just treasurer, the office was segregated.

Q. Of the same local? A. That's correct.

2148 Q. And when you say that the office was segregated to treasurer, what do you mean? A. That instead of one person holding the secretary-treasuryship, another person was elected as secretary and I was elected to serve as treasurer.

Q. Who was the other person? A. Mr. Wrench.

Q. Now, during the period of time that you were a member of the Brotherhood, that is, Utility Employees, and held office, were you continuing your activity in the organization? A. Yes.

Q. And was that activity membership securing activity? A. Yes.

Q. Any other activity? A. Attending the meetings as an officer and the different rallies, participated in the planning of the workings of the local.

Q. When was it that you say that you were laid off?

A. November 29, 1935.

S. M. 779

Q. Now, between February, 1935, when you became an officer and November 19, 1935, when you were last employed by the company, did you become a member of any other labor organization? A. No.

Q. Did you resign from the employee representation plan? A. No.

Q. Did you make known by writing or by word of mouth to any officer of the company that you were an officer of the Brotherhood of Utility Employees? A. I did.

2150

Q. Do you recall when that was? A. About February or March, 1935, practically after taking office.

Q. And was that by letter? A. That was by registered letter.

Q. And to whom was that letter sent? A. Mr. Hausenbauer.

Q. What did you write Mr. Hausenbauer? A. In substance?

Q. Yes. A. That I was exercising my constitutional rights to affiliate with an independent labor union, and that I was taking this step to inform him to that effect, so that there wasn't any thought of unfair play.

2151

Q. Why did you write that letter? A. Because we,

S. M. 780

the executives, felt that the company then, after having received notice of our affiliations or membership in the union, could not deny at any time that we were members of the Independent Labor Union.

Q. You mean could not deny that they were advised of that fact? A. That's correct.



2152

*Michael A. Wagner For N.L.R.B.—Direct*

Q. Did you have occasion, during that same period of time, to speak with any of your supervisors regarding your membership in this organization? A. No.

Q. Did you participate in any of the activities of the organization in distribution of leaflets? A. I did.

Q. And did you personally do that? A. I did.

Q. And did that distribution take place around the company property? A. It did.

Q. Was that during this same period of time, after February and before your last day of employment? A.

2153 I believe so, yes.

Q. Did you serve on any committees during that period of time? A. By virtue of being an officer, I was on the executive committee.

S. M. 781

Q. Were there any conferences before you were laid off or discharged by your organization or a committee of your organization with management regarding any particular questions? A. With what—I am sorry.

Q. With management, on any particular question? A. I am sorry, the question is a bit long. I don't follow it.

2154

Q. Did you serve on any committee that met with the representative of management? A. No, I did not.

Q. All right. Were you, as a member of any committee, engaged in the formulation of proposed demands to be submitted to management for any particular working unit of the company's operation? A. I cannot say that I was.

Q. But, were such plans being formulated? A. I believe they were.

Q. Were you, as an officer of the local, advised of that fact? A. Yes, having been in on the executive committee meetings.

*Michael A. Wagner—For N.L.R.B.—Direct*

2155

Q. Yes. And were those plans being formulated at the time you were last employed by the company? A. Within a period of about six months.

Q. Yes. You mean within that six months period or S. M. 782

six months before? A. Six months before November 29.

Q. Is that when you started the formulating process? A. Well, I don't know if it is exactly the formulating process, but we did discuss in the executive committee meetings the possibilities of presenting grievances to the management. 2156

Q. Yes. And didn't those discussions take place also during the six months period up to the day you were last employed? A. Yes.

Q. Would you tell us whether or not you received notice from anyone that you were to be laid off or discharged before November 19, 1935, or before November 29th, rather, 1935? A. No, I did not.

Q. Will you tell us what happened on that day? A. On November 29, about 3 P. M., I was told by my chief to go over to the personnel department. I went over to the personnel department, and Mr. Payne told me that he had some bad news for me. I asked him what it was. He told me that they were leaving me go, and I asked him for the reason and he told me that they were discontinuing the continuing inventory department and in order to make room for married men, they were letting me go, and I asked Mr. Payne how about the other employees who were hired after me, and he said he is not making the decision. That was all. 2157

Q. What was the department that he told you was

S. M. 783

being discontinued? A. The continuing inventory department.

2158

*Michael A. Wagner—For N.L.R.B.—Direct*

Q. Was that the department in which you were employed? A. No.

Q. Do you know, did he tell you, how many persons were employed in the continuing department? A. Who is the "he"?

Q. Mr. Payne. A. No, he did not.

Q. Do you know how many were? A. I have no idea.

Q. No idea at all? A. No. It covers work in Flushing, I believe, and in Long Island City.

2159

Q. And was it your understanding that with the discontinuance of that department, married men from that department would come to work in your department and you men, as single men, would be let out; is that right?

A. In accordance with the reason given, yes.

Q. And did he enter into any discussion with you on the question of seniority? A. He did not.

Q. Did you point out to him the fact that there were persons remaining who had less seniority than you? A. I did.

Q. Do you know whether or not any of these persons

S. M. 784

2160

remaining were married? A. I do know that some were not married.

Q. And were those some who were not married continued in the employ of the company? A. To the best of my knowledge to that date, yes.

Q. Can you give us the names of any of them? A. Yes.

Q. Will you? A. John Glose—incidentally there were only, at the time of my discharge, there were only a possible one, besides myself who held the title of accounting assistant, all those that I mentioned are probably, or were probably first grade clerks.

Q. All right. A. John Glose, Vincent McSavny—women also?

*Michael A. Wagner—For N.L.R.B.—Direct*

2161

Q. Yes. A. Miss Strouse.

Q. Single women are these? A. Yes, it will take me a little time to go over this.

Q. Well, can you tell me then in addition to that number that you have just given me how many others there were? A. Approximately four more.

Q. Men or women or both? A. Possibly both.

Q. Both? A. Yes.

S. M. 785

Q. And these persons were single, whether male or female? A. That's correct.

2162

Q. All of them with less seniority than you, is that right? A. That's correct.

Q. And all of them graded as clerks? A. That's correct.

Q. All persons of less seniority than yourself, is that right? A. Yes.

Q. Was there one other person who had the same ranking as you? A. I am not certain on that.

Q. Well, who was the person to whom you referred before? A. Not any one particular person but the possibility that there was one, I don't exactly remember, but certainly not more than one out of the entire bureau who had the rank of accounting assistant.

2163

Q. You mean out of the 70 or 75 persons in the whole bureau, there may possibly have been another one with your ranking, is that it? A. That's correct.

Q. But you don't know, is that it? A. I don't know.

Q. Have you ever met anyone who had the same ranking that you had in your bureau? A. No.

S. M. 786

Q. All right. Do you know whether or not anyone was put in your job? A. I do not.

2164

*Michael A. Wagner—For N.L.R.B.—Direct*

Q. You do know, however, that some one would have to take the job to carry on the work of the department, don't you? A. That is correct.

Q. And you have not learned who it was? A. I have not.

Q. All right, do you know whether or not new persons have been employed in your bureau since you were last employed? A. I do not know.

2165

Q. Do you know whether or not this department that Mr. Payne said was going to be discontinued was discontinued? A. It is not discontinued.

Q. Did you then leave Mr. Payne's office? A. I did.

Q. You took steps to secure reinstatement through a committee? A. Through the union, yes.

Q. And that was by a committee composed of Mr.—  
A. Mr. Kennedy, Mr. Emler, Mr. Young, I don't recall any more on it.

Q. And that was the last that you were employed by the company, is that right? A. That's correct.

Q. And are you working elsewhere at the present

S. M. 787

2166

time? A. I am

Q. How long were you out of employment? A. About a year and a half.

Q. And when did you get the job that you now hold?  
A. May 13, 1937.

Q. Is that the first job you have had since you were let out of Queens? A. No, I worked for ten days in the railway mail division of the post office department, Christmas.

Q. How much did you receive for that work? A. Approximately \$60.00.

Q. And this job that you are holding now, which you

have held since the date given, how much are you getting a week? A. \$17.00.

Q. How many hours do you work a week? A. Approximately 50.

Q. You are still employed, is that right? A. I am.

Q. Who is your employer? A. Cascade Laundry.

Q. Where is that located? A. Myrtle Avenue and Marcy, Brooklyn, New York.

Q. And are you desirous of going back to work for this company? A. I am.

Mr. Moscovitz: That's all.

S. M. 788

### CROSS EXAMINATION:

Q. (By Judge Ransom) How old were you at the time your employment was terminated? A. 29.

Q. Your work was only for the New York and Queens Electric Light and Power Company? A. Yes.

Q. And where was the office where your work was done? A. I am sorry, I did not hear you.

Q. Where was the office at which your work was done? A. Bridge Plaza, Long Island City.

Q. And all your work in one relationship or another related to the fixed capital records? A. That is correct.

Q. Now, fixed capital records, am I right in saying, are the accounting records kept by the company at its office to record the costs of the various classes of property in active use? A. That is correct.

Q. And did your work relate to fixed capital records generally, that is, as to all classes of fixed capital, or to some particular phases of fixed capital? A. Particularly to the increase of fixed capital, of the distribution end, but occasionally on different reports I had to refer to all fixed capital.



2170

*Michael A. Wagner—For N.L.R.B.—Cross*

S. M. 789

Q. The matters that you really were recording, were the changes in the distribution properties, were they not?

A. Yes.

Q. For example, property was placed in use, and you recorded its original cost to the company? A. I participated in that, yes.

Q. On the property placed in use of the distribution lines in the part of the Borough of Queens, which the company served? A. That's right.

2171

Q. And then, when any of that property, for any reason, went out of use, the original cost of that property, which had been a part of the fixed capital of the company, had to be written out? A. Had to be retired, that's right.

Q. And in taking it out, you made a record of the original unit cost of the property and took into account any salvage or dismantling cost? A. Not me, personally.

Q. Well, in your Bureau? A. That's right.

Q. Were you concerned only with the— A. Installation.

Q. Installation costs? A. That's right.

2172

Q. The cost at which it had gone into the fixed capital

S. M. 790

at the time it had been locally installed on the lines? A. That's right.

Q. Now, you spoke of a time as of which you came to work on the reports of the company through the Public Service Commission of the State of New York, when was that? A. That, as near as I can remember, I don't know the exact time—

Q. Well, approximately. A. About 1934, or possibly '33.

Q. Now, those reports are annual reports to the Commission? A. No, monthly reports.

Q. Your work did not relate to annual reports? A. Not my work, no.

Q. Under orders made by the Commission, the company has to file with the Commission monthly reports of additions to and retirements from fixed capital? A. That is correct.

Q. And your work was upon those reports? A. That is correct.

Q. Now, from this time which you have indicated, down to the time at which your employment was terminated, was your work upon those monthly reports to the Commission as to fixed capital? A. Not my time exclusively, but I did exclusively prepare the P.S.C. reports.

2174

S. M. 791

Q. And in addition to that you did the type of work which you have spoken of in connection with the fixed capital records? A. Yes.

Q. Those reports to the Commission on additions to and withdrawals from fixed capital, those monthly reports were made in pursuance of orders of the Commission in cases in which securities had been authorized? A. No.

2175

Q. You don't know? A. Not, in connection where securities had been authorized. That is, as far as I can recall, a report that has been prepared monthly for several years. It is not in connection only with securities, as far as I know.

Q. Now, you don't know whether the fact is that they are required under some order of the Commission, do you know that? A. Yes.

2176

*Michael A. Wagner—For N.L.R.B.—Cross*

Q. You are not able to state to the Board what the nature of these orders are except that as one of their terms they require a monthly statement of the amount of additions to and withdrawals from fixed capital to be filed with the Commission? A. Yes; I do, minus the security part.

Q. Well, leaving out the question of what the Commission's order were, do you know that there were orders

S. M. 792

2177 which required such monthly reports to be filed? A. I have not seen it, I never saw the orders.

Q. But you know there were orders? A. Well, if the company prepared it, evidently there were.

Q. How many members with dues paid up did the Brotherhood of Utility Employees have at the time you became secretary-treasurer? A. At the time I became secretary-treasurer?

Q. Secretary-treasurer—paid up dues? A. I don't remember.

2178

Q. I am referring now, of course, to your local of which you were secretary-treasurer, why does it take you so long to state that? A. Because I am trying to get the time from the time that we created the union and this is February 16 that I am trying to go back to, to the time that we had the election of officers and then from February 16, that is the time that I am trying to place the approximate membership—I don't exactly offhand know. I would say about 150.

Q. How many members with dues paid up did the local Union of the Brotherhood have at the time you ceased to be treasurer? A. I don't know that.

Q. You were—are you able to give the Board any idea? A. I am unable to give the Board any idea be-

S. M. 793

cause of merely holding office at the time I terminated my office with the union which was in 1936 and I was not quite as active as I was before.

Q. When did you cease to be treasurer? A. In 1936, December.

Q. Are you able to state then how many members were paid up and in good standing, how many members the local union had at the time, let us say? A. A little louder please.

Q. How many members did the local union have at the end of 1935? A. I guess about two and a quarter or two and a half, I am sorry I can't—

2180

Q. You mean two hundred and twenty-five or two hundred and fifty? A. Yes, I am sorry I can't be specific about the number.

Q. The amount of work which was involved in the preparation of these reports and records of fixed capital varied, did it not, with the amount of construction work that was going on? A. I am sorry, you will have to repeat that.

Q. I say, the amount of work that was involved in making up the reports of records of fixed capital varied with the amount of construction work that was going on?

2181

S. M. 794

A. Hardly.

Q. The question whether construction was active or had fallen off had nothing to do with the volume of work involved in these reports, is that your statement? A. That is correct.

Judge Ransom: That is all.

2182

*Michael A. Wagner—For N.L.R.B.—Redirect**Examination by Trial Examiner:*

Q. (By Trial Examiner Gates) How much money have you made since you ceased working? A. About 112.00 since I ceased, did you say?

Q. Yes. A. About \$112.00.

Q. Altogether you made that, since November 25, 1935? A. That is correct.

Q. That's your total income from all sources? A. Total income, yes, I guess it may be a little less or a little more.

2183

Q. How much? A. Well, certainly not more than \$50.00.

Q. Either way? A. Either way.

Mr. Moscovitz: I understood your testimony to be that you got \$60.00 from the post office department, is that correct?

The Witness: That's right.

S. M. 795

*REDIRECT EXAMINATION:*

2184

Q. (By Mr. Moscovitz) What date did you go to work? A. May 13.

Q. 1937? A. 1937.

Q. Then you got \$17.00 a week there? A. That is right.

Q. You got \$17.00 a week from that date to this date? A. That is correct.

Q. There has been no other income? A. I have an account where I get \$5.00 a month.

Q. Well, is that a savings account? A. No, that is accounting.

Q. Accounting? A. I get \$5.00 a month.

Q. When did you start getting that? A. Well, I guess that was about 1930 or '32.

*Gusta Harding—For N.L.R.B.—Direct*

2185

Q. So that you have gotten that \$5.00 a month since the last day you were employed? A. Yes.

Q. By the company? A. Yes, and prior to it.

Q. You got it prior but you certainly have continued getting it since November 29, 1935? A. That's correct.

S. M. 796

Q. And you still get it? A. That's right.

Q. And that's the only other income? A. That's all.

Mr. Moscovitz: That's all.

Trial Examiner Gates: That's all.

2186

(Witness excused.)

Trial Examiner Gates: We will take a short recess.

(Whereupon a short recess was taken.)

#### AFTER RECESS.

GUSTA HARDING, called as a witness for the National Labor Relations Board, being first duly sworn, testified as follows:

2187

#### Direct Examination:

Q. (By Mr. Moscovitz) What is your name? A. Gusta Harding.

Q. Where do you live? A. 185 Prospect Place, Brooklyn.

Q. By whom are you employed at the present time? A. Consolidated Edison Company, Hellgate Station.

Q. Where is the Hellgate Station? A. 134th Street and Locust Avenue, the Bronx.



2188

*Gusta Harding—For N.L.R.B.—Direct*

Q. What kind of work do you do there? A. Station mechanic work.

Q. How long have you been working for the company?

A. Since May, 1927.

S. M. 797

Q. You are still in the employ of that company, aren't you? A. Yes.

Q. Are you a member of any labor organization at the present time? A. Local 1212 C.I.O.

2189

Judge Ransom: Will you keep your voice up?

I cannot hear you at all.

Q. (By Mr. Moscovitz) Is that Local 1212 of the United Electrical and Radio Workers? A. Yes.

Q. How long have you been a member of that local? A. Since its affiliation with the C.I.O., which was March 19th of this year. Before that I joined the I.B.E.W., known as Local B-752, approximately December of 1936.

Q. And you were in the I.B.E.W. at the time it went into the United Electrical Workers, is that right? A. That's right.

2190

Judge Ransom: You mean when this local did?

Mr. Moscovitz: Yes, when the local did.

A. Right.

Q. (By Mr. Moscovitz) After the local went into the United Electrical Radio Workers were you approached by anyone in your plant who requested you to change your labor organization membership?

Q. I was requested to sign the I.B.E.W. card? A. On

S. M. 798

April 26th.

Q. Where was that at? A. At Hellgate Station.

Q. While you were at work? A. Yes.

Q. By whom? A. By the assistant chief, Robert Armstrong.

Judge Ransom: Who?

The Witness: Assistant chief engineer.

Q. (By Mr. Moscovitz) Robert Armstrong? A. Right.

Q. Is he your boss? A. He is practically head of the station under the chief engineer and superintendent.

Q. First there is a chief engineer? A. First there is a superintendent.

2192

Q. Who is that? A. His name at that time—it has been changed. Mr. H. Hall.

Q. Hall? A. The present name of the new superintendent, transferred there about, I would say, approximately one or two weeks, by the name of Mr. Wheeler.

Q. Yes. Now at the time Mr. Hall was superintendent, who was the chief engineer? A. Mr. Dan Murphy.

S. M. 799

Q. He was next in command, is that right? A. Yes.

Q. Then Mr. Armstrong? A. Mr. Robert Armstrong, yes, sir.

2193

Q. Was the next, is that right? A. Yes.

Q. Then who was next? A. My immediate boss was Mr. A. F. Anderson, machine shop foreman.

Q. And was Mr. Anderson under Mr. Armstrong? A. Yes, sir.

Q. I see. Was this in the morning or in the afternoon of that day? A. In the afternoon.

Q. Were you at your machine? A. I was at my work, yes, sir.

Q. At your work? A. Yes, sir.

Q. Were you approached by Mr. Armstrong? A. A

2194

*Gusta Harding—For N.L.R.B.—Direct*

man was sent down for me to go up to the machine shop foreman's office. Mr. Armstrong wanted to see me there.

Q. Who was the man that was sent down? A. I don't recollect, one of the men in the shop.

Q. Did you leave your work? A. Yes, sir.

S. M. 800

Q. What is your work? A. I am employed as a station mechanic, second-grade, my work consists in electrical acetylene welding.

2195

Q. Did you go into the office? A. Yes, sir.

Q. Is that upstairs? A. It is on the third floor.

Q. Whose office did you say it was? A. Machine shop foreman's office.

Q. What was his name? A. Machine shop foreman's name is A. F. Anderson.

Q. And was Mr. Anderson there? A. No, sir, it was his day off.

Q. Who was there? A. Mr. Robert Armstrong and Mr. Anderson's assistant, John Eagan.

Q. What is John Eagan's job? A. Mr. John Eagan's job is to take charge of the machine shop men while Mr. Anderson has his days off.

2196

Q. How many men are employed in the Hellgate station? A. Approximately, to my knowledge, 700 or 750.

Q. What happens in that station, what do you do in that station; what is made? A. Generating electric current.

S. M. 801

Q. Yes. And when you went into the office and Mr. Armstrong and this other gentlemen were there, did you know what was going to happen, did you know what you were going up there for? A. I had an understanding.

Q. What do you mean you had an understanding? A.

I had an understanding from the rumors that were going around that we were supposed to sign the I.B.E.W. cards.

Judge Ransom: Move to strike out the answer.

Trial Examiner Gates: It may stand.

Judge Ransom: Exception.

Q. (By Mr. Moscovitz) What happened then when you went in? A. Mr. Armstrong put the card in front of me and said, "Sign this!"

I said, "Do I have to?"

Q. What was the card? A. The I.B.E.W. card.

Q. Was it— A. The yellow card.

Q. Is it a card exactly like Board's Exhibit No. 6 (handing witness Board's Exhibit No. 6)? A. Yes.

Q. Will you hold it for a second? And when he handed you this card, do you know whether or not—well, did you see any other cards like it? A. Yes, he had a

6. M. 802

stack of cards on his desk.

Q. On his desk there? A. On the machine shop foreman's desk at the office where he was at.

Q. And when you say a stack of cards, approximately how many do you mean? A. Well, I couldn't judge approximately how many.

Q. How high a stack? A. Well, I didn't take specific notice how high the stack was. He had a stack of cards all spread over the desk.

Q. Had them all spread over the desk? A. Some of them were in a stack and some of them were spread over the desk.

Q. Did you take a look over at them? A. Yes, he pointed to me and I said, "Do I have to sign?" And he said, "The company wants you to sign it".

2200

*Gusta Harding—For N.L.R.B.—Direct*

Q. He said what? A. He said, "The company wants me to sign it". He said, "The company don't want the C.I.O., so you might as well sign the I.B.E.W. card".

Q. When you looked over at these other cards, did you notice whether or not any of them were signed? A. Well, he told me that practically every man had signed and I was amongst the last.

Q. Did you sign? A. I did not, that day. I told him

S. M. 803

2201 that I hope I will be the last man to sign that card, because I did not believe in it.

Q. And did you leave then? A. I left the following Thursday, that was a Monday.

Q. Did you go back to your job? A. I did.

Q. This was on a Monday, you say? A. Yes.

Q. Then what happened? A. I was off Tuesday and Wednesday.

Q. You were off Tuesday and Wednesday? A. Yes.

Q. Your days off? A. My days off.

2202 Q. Yes. A. But before that, during that conversation, I asked him if I had to sign the card again, and he said no, but he said, "There is two roads" and he motioned with his hand, "two roads, one road going this way, and one road going that way," and he said, "You might as well follow one of these roads," and he said, "The company will be good to you so you might as well sign."

On Thursday morning, I came back to work, the 26th, I believe, the 29th. It was Mr. Armstrong's day off. I

S. M. 804

inquired in the shop if the men had signed the card, and practically all but two, to my knowledge, had signed the card.

Q. Who were the two that had not, yourself and one other? A. No.

Q. Two outside of yourself? A. Yes.

Q. I see, go ahead. A. And he referred to the assistant machine shop foreman, John Egan, he come up to me and he started to tell me about the card, so I asked him if any discrimination—

Q. What did John Egan say to you? A. He said, he asked me how I felt about signing the card, and I told him, "Well, if the rest of them sign I guess I might as well play ball with the rest of them."

2204

Q. Was this while you were at work? A. During working hours, yes, sir.

Q. And John Egan, was he your immediate boss then? A. He was not, my immediate boss then was Mr. Anderson, he was on duty, but he also acts as an assistant to Mr. Anderson.

Q. I see. What did you say to him? A. I said, "He came up to me during working hours and talked to me back and forth about the card and pointed out to me that, well, I was approximately the only one holding out, not signing the card", so I asked him if any discrimination

S. M. 805

2205

was going to be made by not signing the card. Well, he says, as far as he knew he didn't know, he could not say, so from the understanding I got, well, I figured, well I might as well go up and sign the card, so I went up to Mr. Armstrong's office.

Q. Did you leave your job? A. I left my job, yes.

Q. Did you tell the foreman that you were going up, the assistant foreman? A. Yes, and he understood I was going up to Mr. Armstrong's office.

Q. What did you say to the assistant foreman before you went up, that you were going up to sign? A. Well, I said to him, I might as well sign it then.



2206

*Gusta Harding—For N.L.R.B.—Direct*

Q. And then what? A. Then I went up to Mr. Armstrong's office and got a card, I don't know his title, a man in Mr. Armstrong's office handed me the card.

Q. Was Mr. Armstrong there then? A. No, sir.

Q. Anyone there outside of this particular man? A. No, sir.

Q. Do you remember his name? A. I believe his name was Harrison.

Q. Had you ever seen him there before? A. Yes.

2207

S. M. 806

Q. He works there regularly? A. Yes.

Q. What work does he do? A. I believe he worked as a bookkeeper, I believe, or timekeeper.

Q. Did you ask him for a card? A. He handed me the card as I came into the office, I asked him, and he said, "What are you up here for?"

I said, "About that card."

So he handed me this yellow card.

Q. Did you see the other cards there too, then? A. No, not at that time.

Q. And he just handed you one, is that right? A. Right.

2208

Q. And then what? A. That is the last I heard of it.

Q. Did you sign the card? A. Yes, sir.

Q. And who did you give it to? A. Mr. Harrigan. is the name, I called it Harrison before, it is Harrigan.

Q. The same man that acts as bookkeeper? A. Yes.

Q. Was anything else said between you? Why did you go up and sign? A. Well, if I—I believed, the rest

S. M. 807

of them had signed, I might as well fall in line with the rest of them, because I did not know whether any discrimination was going to be made on my holding out.

Q. And after you signed the card, you went back to your job, didn't you? A. Yes, sir.

Q. And you continued at your job? A. Yes, sir.

Q. Can you tell me whether or not you noticed or can you tell me whether or not there were any men who appeared in your plant from time for the purpose of distributing these cards and collecting dues? A. Yes, sir.

Q. Do you know their names? A. The first man to collect the dues in the company, the janitor foreman's office, I believe his name was Idleback, he was a machinist, at the Flushing station, Waterside Station. He appeared on the company property with a sign on the door, the door was swung wide open "Pay your A.F.of L. dues here".

2210

Q. When was that? A. That was approximately a week after we had signed the card on a Wednesday.

Q. Approximately a week after you had signed your

S. M. -808

card? Where did you say this sign appeared? A. On the inside of the door, the door was swung open to the janitor foreman's office.

2211

Q. Who is the janitor foreman? A. The janitor foreman's office, well, the janitor foreman's name I believe is McCann.

Q. What's his job? A. His job is to look after having charge of all the building service janitors, if I am correct.

Q. I see, the head one? A. No, he has a boss over him.

Q. Who is his boss? A. Mr. Shean.

Q. What is his title, do you know? A. I believe his title is called foreman also, chief mechanic, building service, chief of the building service rather.

2212 *Gusta Harding—For N.L.R.B.—Direct*

Q. Building superintendent? A. Building superintendent is right.

Q. And is this other man in whose office this sign was hanging, is he the foreman of the janitors? A. Yes, sir.

Q. How many janitors are there? A. Oh, I couldn't fix the number.

Q. Are there a lot of them? A. Quite a few of them, yes, sir.

2213 S. M. 809

Q. Do you mean when you say quite a few, as many as 50? A. I believe so, yes, sir.

Q. Do they work under him? A. Yes, sir.

Q. And then he is responsible to the building superintendent, is that it? A. Yes, sir.

Q. Was he in this office, do you know, at the time you say you signed? A. I did not notice him.

Q. Who did you notice in the office? A. A fellow that has been pointed out to me as Mr. Idelback, I believe his name is.

Q. Any other man? A. No, sir, not at that time.

2214 Q. Do you know whether or not Mr. Idelback, has previously been a member of any other labor organization? A. Not to my knowledge, no, or yes, he had at that time been a representative from 41st Street, Waterside Station, to the E.R.P.

Q. That's the employees representation plan? A. Yes, sir.

Q. That was when the plan was still in existence? A. Yes, sir.

Q. Can you tell me whether or not you noticed what

S. M. 810

this gentleman was doing in that office? A. Well, at the time I saw the man he was sitting at the table and

the only one purpose I could understand as long as the sign was on the door was to collect the dues for the A.F.of L.

Q. Did you notice whether or not there were other cards on the desk? A. There were cards on the desk, yes, sir.

Q. You mean like Board's exhibit No. 6 that I just showed you? A. Well, I could not see, I don't know whether it was those cards or not, or some other cards where notification was made they paid their dues.

Q. Did you see any men go in or come out? A. Not at that time. 2216

Q. And was this during working hours he was there?

S. M. 811

A. It was right before working hours, right before. I would judge about ten minutes to eight.

Q. That is when you saw it? A. Yes.

Q. Was it there during the day? A. It was there during the time the paymaster was there.

Q. When was the paymaster there? A. The paymaster comes to Hell Gate Station Wednesday afternoons, Thursday mornings, and Friday nights. 2217

Q. What does the paymaster come there for? A. With the weekly payroll for the men.

Q. To pay the men off? A. Yes.

Q. Was that the day the men would get paid off? A. Yes.

Q. What time do you get paid off? A. On Wednesdays, we get paid off from 2:30 to approximately five o'clock. On Thursday mornings, from eight to nine o'clock in the morning. On Friday afternoons, from about four to five o'clock.

Q. This was Thursday that you are telling me about? A. Wednesday I am talking to you about.

2218

*Gusta Harding—For N.L.R.B.—Direct*

Q. I see. Was he there Thursday, too? A. Yes.

Q. Was that sign there Friday, too? A. Yes.

S. M. 812

Q. Was he there Friday, too? A. Yes.

Q. And when did you go in to get your pay? A. I went to get my pay on Wednesday afternoon. I was going on my vacation the following week. Instead of taking my days off on Tuesday and Wednesday, I took my days off the end of the week.

2219

Q. Yes. A. We don't get paid off in the office. We get paid off on the fifth floor. It is an office where we call the frequency changing building.

Q. Yes. A. We got paid off. Coming back into the machine shop, as we come in one by one after being paid off, we walked into the shop, the machine shop foreman said, "Well, fellows, go down and pay your dues."

Q. When was that? A. Wednesday afternoon. We got paid off, I would say, approximately between three and four-thirty.

Q. Did he say it to you? A. Yes.

Q. And to the other men working there? A. Yes.

2220

Q. You heard him say it? A. Yes.

S. M. 813

Q. And did you notice whether or not any of the men went down? A. A few of them went down, to my knowledge.

Q. Do you recall who the men were, to your knowledge? A. Yes.

Q. Who were they? A. A fellow by the name of Pete.

Q. Yes. A. As far as I can recall got paid that day.

Q. Did you notice other men going down? A. I heard of other men going down that day.

Q. Is that the first time you heard the machine shop foreman go down and tell men to go down and pay their dues? A. Yes.

Q. Did you hear him tell the men to do it at any other time? A. No.

Q. Did you notice, after the first day, whether or not other men adhered in addition to this one that you have already described? A. Yes.

Q. For the purpose of collecting dues? A. Yes.

Q. And do you know their names? A. One fellow by the name of Nielsen. His first name, I don't know, an 2222

S. M. 814

electrical repairman, an electrical operator, and another man in the boiler room maintenance by the name of Jimmy Brady.

Q. Are those from the Hell Gate plant? A. Yes.

Q. Do they work in your department? A. Not in my department, no, sir.

Q. In a different department? A. Different departments of the plant.

Q. Different buildings? A. No, the same building.

Q. The same building? A. Yes.

Q. But in no department that you worked in? A. No.

Q. And how long had you known those two men? A.

Well, I have seen them in the plant for as long as I have been employed by the company.

Q. Yes. And do you know whether or not they were members of any labor organizations? A. Not to my knowledge, except the E.R.P.

Q. You knew they had been members of the E.R.P.? A. Yes.

Q. Do you know what offices they held in the E.R.P.?

A. I believe Nielsen was a representative, well, if it was 2223



2224

*Gusta Harding—For N.L.R.B.—Direct*

S. M. 815

the electrical operating, I don't know, or electrical repair maintenance. Brady was a representative for the boiler room and maintenance in the last part of the E.E.P. plan.

Q. And the employees representation plan at this time was out of existence. Is that right? A. Yes.

Q. And when was it that you saw these two men there for the purpose of collecting dues? A. Well, I cannot fix the date exactly.

2225

Q. Was it after the Wednesday that you told us about? A. Yes.

Q. Well, can you fix the time then after Wednesday? A. I cannot fix the time exactly. I cannot recall how many weeks Mr. Eidelbach was in the office.

Q. Well, would it run you into the month of May or June of 1937? A. The month of May, I would say.

Q. 1937? A. Yes.

Q. Where was it that you saw these two men? A. At the same office that Mr. Eidelbach was at.

Q. The plant, or—the janitor foreman's office? A. Yes.

Q. Was the sign there, too? A. Yes, sir.

2226

S. M. 816

Q. The same sign? A. Yes.

Q. And how many days did you see these two men in that office? For what period of time? A. Well, I saw him on a Wednesday, on a Thursday morning, on a Friday night, as we were leaving work.

Q. Those were the days when the men got paid off? A. Yes.

Q. And do you know whether or not they were there only at the times when the men were being paid off, or were they there during the day? A. I would say they were there during the time the men were paid off, a little before and a little after.

Q. And was any one else in the office with them? A. Not to my knowledge.

Q. And what did you see them doing? A. With the cards.

Q. Did you notice whether or not the men were going in? A. Personally, I did not notice any other men going in.

Q. Was it reported to you by men that they had been in and paid? A. Yes.

Judge Ransom: I object to that as incompetent.

Trial Examiner Gates: It may stand.

Q. (By Mr. Moscovitz) Who were the men who reported to you they had been in and paid? A. Well, there

S. M. 817

is different ones, I would say different men come in, so-and-so paid and so-and-so paid and I cannot recall exactly who came in to me with those words.

Q. I see. Did you get paid at that time? A. No, sir.

Q. And had you seen any other men there at any other time after that? A. I seen Mr. Nielsen in the office with a card for the purpose of collecting dues.

Q. Who is Mr. Nielsen again? A. The man which was a representative of the old E.R.P. plan.

Q. Where did you see him? A. In the boiler room office.

Q. When was that? A. That was last Monday.

Q. Last Monday? A. Yes.

Q. You mean Monday of this week? A. Yes, sir.

Q. What time of the day was it when you saw him there? A. Approximately in the hours between eleven and one, I would say, those hours between twelve and twelve-thirty—

Q. What was he doing? A. From what I heard of the men at the boiler room, he was there for the purpose of

2230

*Gusta Harding—For N.L.R.B.—Direct*

S. M. 818

collecting the dues.

Q. Well, did you see him in the office? A. I saw him in the office, yes, sir.

Q. And was the sign there? A. No, sir.

Q. Did you notice whether or not he had cards? A. I noticed he had a box and an envelope, sitting down at the desk.

2231

Q. Who else was in the office at the time? A. I don't recall who was at the office at the time except the boiler room bookkeeper.

Q. Have you seen any one else since then? A. I have not been in the plant since that day.

Q. Why not? A. My days off is on Tuesdays and Wednesdays.

Q. And when do you go back to work again? A. Tomorrow morning.

Mr. Moscovitz: That's all.

Judge Ransom: I should like an opportunity to check up on these matters before cross examination. I had no idea of this witness's existence until he took the stand. I have no way of checking anything at this moment.

2232

Trial Examiner Gates: Any objection, Mr. Moscovitz?

Mr. Moscovitz: What is that?

Judge Ransom: I say, I would prefer to have an opportunity to check on this witness as to whom

S. M. 819

I had never heard until a few minutes ago before cross examining.

Mr. Moscovitz: You mean this afternoon?

Judge Ransom: I don't know if I can check by then, Hell Gate is quite a ways from here.

*John Symon—For N.L.R.B.—Direct*

2233

Mr. Moscovitz: I can put another witness on, the only point is that I would not like to keep this next witness and this one after today because they do go back to work.

Judge Ransom: I will do what I can on it.

Mr. Moscovitz: You wait until this afternoon.

(Witness excused.)

Mr. Moscovitz: I will call Mr. Symon.

2234

JOHN SYMON, called as a witness for the National Labor Relations Board, being first duly sworn, testified as follows:

*Direct Examination:*

Q. (By Mr. Moscovitz) Where do you live, Mr. Symon? A. 280 Decatur Ave., Jersey City.

Q. That is New Jersey, isn't it? A. New Jersey.

Q. By whom are you employed? A. Consolidated Edison Company.

Q. At the Hell Gate plant? A. At the Hell Gate plant.

2235

Q. How long have you been there? A. At Hell Gate,

S. M. 820

I have been there six years, at Sherman Creek I was five years.

Q. You have been working, then, for the company for eleven years? A. Eleven years.

Q. What is your job at the present time? A. Station mechanic, third class.

Q. You work in the same department that Mr. Harding does? A. I do.

2236

*John Symon—For N.L.R.B.—Direct*

Q. Do you remember the U.R.E.W., which is affiliated with the C.I.O.? A. I am.

Q. How long have you been a member of that organization? A. Since this past April.

Q. April 20th? A. April 14th.

Q. April 14th? A. Yes.

Q. 1937? A. Yes, sir.

Q. Before that, were you a member of the local of the I.B.E.W.? A. No, sir.

Q. You were not? A. I was not.

2237

Q. Were you a member of any labor organization before then? A. No, I wasn't.

S. M. 821

Q. I see, so that this is your membership in your first labor organization, is that right? A. Yes, that's right.

Q. Were you a member of the E.R.P.? A. E.R.P.?

Q. Employees Representation Plan? A. I was.

Q. At the time you became a member of the U.E.R.W. Local, you were no longer a member of the E.R.P., were you? A. So they tell me.

Q. So they tell you? A. Yes.

Q. Who told you that? A. It was disbanded.

2238

Q. Can you tell me whether or not at any time after you became a member of the U.R.E.W. Local, you were asked to become a member of the different labor organization? A. I was.

Q. Do you recall when it was? A. It was on April 26th of this year.

Q. Of this year? A. Yes, sir.

Q. Will you tell us what happened on that day? A. Well, I was on the job, I was sent for by the assistant

S. M. 822

foreman, Mr. Robert Armstrong, the assistant engineer,

and he called me in to the office and he told me to sign the card.

Q. Whose office did he call you into? A. The machinist boss's office.

Q. Is Mr. Armstrong your boss? A. Well, he is, he is over my boss, so he is entitled, he is over me.

Q. Who is your boss? A. Mr. Anderson is supposed to be my boss.

Q. Mr. Armstrong is over him? A. We take our orders off Mr. Armstrong, too.

Q. Does Mr. Armstrong have the right to fire? A. 2240 Well, he can recommend the firing.

Q. I see. Now, into whose office were you told to go? A. Mr. Anderson's office, the machine shop.

Q. Who was it that told you to go in there? A. Mr. Armstrong.

Q. Did you go into Mr. Anderson's office? A. I did.

Q. Do you recall what time of the day this was? A. Well, it was the afternoon.

Q. The afternoon? A. Yes.

Q. Before you quit work? A. Before I quit work.

S. M. 823

2241

Q. In the middle of the afternoon? A. Well, approximately around two o'clock.

Q. Two o'clock? A. Yes.

Q. What happened when you went in there? A. Well, I—

Q. Who was in there, in the first place? A. Mr. Armstrong.

Q. Only Mr. Armstrong? A. Just Mr. Armstrong.

Q. Mr. Armstrong and yourself? A. Yes.

Q. What did Mr. Armstrong when you went in? A. He handed me a card.



2242

*John Symon—For N.L.R.B.—Direct*

Q. What was the card? A. Well, it was a card for the American Federation of Labor.

Q. Was it a card exactly like Board's Exhibit No. 6? A. It was.

Q. All right, what did he say? A. He told me that I had to sign this card. I said, "Is it compulsory that I must sign it?"

Q. He said it is. "It is the company's orders that you must sign these cards." I said, "What does it mean if I don't sign the card?" He said, "Well, you don't

2243

S. M. 824

want to go on relief, do you?" I says, "No," I says, "I will sign the card," I says, "but I have to look out for my wife and family," I said, "so I don't want to go on relief yet." So I signed the card on one side.

Then he called me back and made me sign it on the other side.

Q. The same day? A. The same day.

Q. He called you back from the job? A. No, called me back to the office to sign the back of the card, the pledge, then he left me go back to my job.

2244

Q. You have been working there since? A. I have been working there ever since.

Q. All right. That's all.

Judge Ransom: I make the same request that this go over until this afternoon.

(Witness excused.)

Mr. Moscovitz: Perhaps it would be better if we adjourned at this point until this afternoon.

Judge Ransom: Could we adjourn until 1:30 this afternoon?

(Discussion off the record.)

*David M. McCarthy—For N.L.R.B.—Direct*

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Trial Examiner Gates: Very well, we will adjourn until 1:15, if that will be time enough.

Judge Ransom: Yes.

Mr. Moscovitz: Yes.

(Whereupon, an adjournment was taken at 12:15 until 1:15.)

S. M. 825

AFTERNOON SESSION.

Trial Examiner Gates: Do you wish to proceed, Mr. Ransom?

2246

Judge Ransom: Mr. Moscovitz has one more man.

Mr. Moscovitz: I am calling my witnesses a little out of line here, Mr. Examiner, but I understand that Judge Ransom is still awaiting some information so I will put Mr. McCarthy on.

Take the stand, Mr. McCarthy.

DAVID M. McCARTHY, called as a witness for the National Labor Relations Board, being first duly sworn, testified as follows:

2247

*Direct Examination:*

Q. (By Mr. Moscovitz) Where do you live, Mr. McCarthy? A. 1786 Sedgwick Avenue, Bronx, N. Y.

Q. Will you keep your voice up so that Judge Ransom can hear you a little better? A. Yes.

Q. By whom are you employed at the present time? A. The Consolidated Edison Company.

Q. In what place? A. 41st St. and 1st Avenue, in the Service Building.

2248

*David M. McCarthy—For N.L.R.B.—Direct*

Q. In what capacity? A. I am a meter tester, third grade.

Q. How long were you working for the company? A.

S. M. 826

Just about seven years.

Judge Ransom: Seven what?

The Witness: Seven years.

2249

Q. (By Mr. Moscovitz) Are you on your day off today? A. No, I am on my vacation.

Q. You are on your vacation. When is your vacation over? A. Oh, I have another week to go, that is the 27th.

Q. 27th of this month? A. Yes.

Q. Then you go back to work? A. Yes.

Q. Are you at present a member of the U.E.R.W.? A. Yes.

Q. Were you, before becoming a member of the U.E.R.W. a member of the I.B.E.W.? A. No, sir.

Q. All right, were you before becoming a member of the U.E.R.W. a member of the E.R.P.? A. No, sir.

2250

Q. So that you entered into the membership with the U.E.R.W.? A. E.R.P. is the company union?

Q. Yes, employees representation plan? A. Yes, I was—yes, the employee representation plan, I was a member of that.

Q. You were a member of that? A. Yes, sir.

S. M. 827

Q. But the plan had disbanded before you became a member of the U.E.R.W., is that right, in other words, you were no longer a member of the plan when you became a member of the U.E.R.W., is that right? A. Well, it was very indefinite, there for about a week we did not know whether the company union was still in effect.

*David M. McCarthy—For N.L.R.B.—Direct*

2251

Judge Ransom: I move to strike that out.

Q. (By Mr. Moscovitz) Instead of using the words "company union," will you use the word "employee representation association?" A. Yes, employee representation.

Q. Well, just simply say "the plan." A. The plan, yes, sir; well, it was very indefinite the first week.

Q. What period of time are you speaking of about now? A. When the company first announced that it had recognized the I.B.E.W.

Q. When was that? A. Let's see.

Q. April of 1937? A. Yes, sir.

Q. Well, is that your best recollection, April, 1937? A. Yes, sir.

Q. When you say the company announced, who did you mean in the company? A. Well, it was announced

S. M. 828

in the paper and the following day Mr. Ruhl, the foreman—

Q. Well, by whom was the announcement made in the paper, was there a reference to any official of the company? A. Yes, sir, Mr. Carlisle had recognized the I.B.E.W.

Q. Now, at that time was the plan in existence? A. The plan?

Q. To your knowledge, or was it still in the state of disbandment? A. Well, according to Mr. Ruhl, he did know himself whether it was in existence any longer or not.

Q. Well, when did he tell you that? A. Why, I think it was on the 19th, the announcement was in the papers.

Q. April 19th? A. Yes.

Q. And it was— A. And the following day, was the 20th.

2252

2253

2254

*David M. McCarthy—For N.L.R.B.—Direct*

Q. Of this year? A. Yes, and he called all the men together and he told them not to sign anything.

Q. Who is Mr. Ruhl? A. He is the foreman on the tenth floor meter bureau, known as the test room formerly.

S. M. 829

Q. Was he your foreman? A. Yes, sir.

Q. Were there any other bosses over you outside of Mr. Ruhl? A. Well, yes, Mr. Kennedy, Mr. Hitchens.

2255

Q. Mr. Kennedy? A. Yes.

Q. Was Mr. Kennedy above or below Mr. Ruhl? A. He was below.

Q. I see, and who else was there below Mr. Ruhl that was a boss of yours? A. Well, Mr. Bradhurst is rated as assistant foreman.

Q. Is he the first man above you, the first supervisor employee above? A. Well, there are two, really, immediately beneath Mr. Ruhl.

Q. Who were they? A. Mr. Bradhurst and Mr. Hitchens.

2256

Q. And what are they known as? A. They are both rated as assistant foremen.

Q. And Mr. Ruhl employ—when did Mr. Ruhl come?

Q. Well, he is above the whole group.

Q. He is above those two, isn't that right? A. Yes, sir.

Q. And was his title foreman? A. Foreman, yes, sir.

Q. Do you spell his name R-u-h-l? A. R-u-h-l, right.

S. M. 830

Q. Do you remember his first name? A. I think it is Edwin C. Ruhl.

Q. And who is above him in the department? A. Mr. Murphy.

*David M. McCarthy—For N.L.R.B.—Direct*

2257

Q. Was Mr. Murphy—what is Mr. Murphy's job there? A. General superintendent, I believe it is.

Q. He is the top boss, is that right? A. Yes, sir.

Q. How many men in your department? A. Approximately a hundred.

Q. A hundred? A. It is divided between the A.C. and the D.C. group.

Q. Yes. Now, you say that the day after you read this announcement in the newspaper, Mr. Ruhl called you together? A. Yes.

Q. Was this during working hours or after working hours? A. During working hours. 2258

Q. What time of the day was it? A. Half past one, two o'clock.

Q. Was this during your lunch period? A. No.

Q. What time is your lunch period? A. From a quarter to twelve to a quarter after twelve.

Q. Where did he call you together? A. Right outside

S. M. 831

of his office. There is a long table, I would say, about 25 ft. long, and he stood on one side, and he lined the men up on the other side.

Q. How many men? A. Approximately 80 or 100 men. 2259

Q. Yes, and did he call for you men to come up, or did he send instructions up? A. All the assistant foremen came around and said the boss wants to speak to us in front of the office.

Q. Do you know whether or not Mr. Ruhl can fire men? A. Not directly, but if he makes recommendations, why, you are through, that's all there is to it.

Q. After you all got up to this table, confronted by Mr. Ruhl, what took place? A. Well, they told us not to sign anything one way or the other, and then went into a discussion on—



2260

*David M. McCarthy—For N.L.R.B.—Direct*

Q. What do you mean, he told you not to sign for anything one way or the other? Was there any preliminary statement by him? A. Yes, he said, in view of the fact that the representatives of the company plan were down in 15th Street, that they had not yet decided whether it was to be an independent union come into the field or the I.B.E.W. would officially come in, he would advise us not to sign anything, but in view of the fact that in the papers the I.B.E.W. was recognized, he felt.

2261

S. M. 832

that if the company does officially recognize the I.B.E.W., that we, being smart boys and knowing on which side our bread was buttered on, we would sign whichever way the company felt.

Q. He would sign? A. No, we would sign.

Q. Is that all he said? A. No, he went into a discussion of the telephone union about which a good many of the boys felt very highly of.

Q. What union is that? A. I guess it would be called the Telephone Company Union.

2262

Q. Yes. A. He said it was nothing but a company union; he knows some men high up in it, and it is generally looked upon as a company union, and company controlled. And that is about all there was.

Q. Then did you go back to work? A. Yes.

Q. Was that the last time Mr. Ruhl spoke to the men in your department as an assembled whole? A. No, sir, we were called together the two succeeding days.

Q. Oh, were you called to the same place the next day? A. The next day.

Q. The same time? A. Just about the same time, immediately after lunch.

S. M. 833

Q. Would you shut down your operations for the time being, or would you leave a skeleton code there when you went to see Mr. Ruhl? A. No, everything was shut down when we went to the meeting with Mr. Ruhl.

Q. How long were you up with him the first time? A. I would say approximately 45 minutes or an hour.

Q. You say the next day he called you up the same time? A. Yes.

Q. The same number of men? A. Yes.

Q. The same place? A. Yes.

2264

Q. Any other men there outside of the men working in your department and Mr. Ruhl? A. Well, perhaps one of the men from the store rooms division, where they keep the meters and the porter, who happened to be present, would stop and listen in.

Q. Well, then, what took place at the second meeting? A. Well, approximately the same thing as in the first meeting. He said the boards, the representatives were down in 15th Street again.

Q. You mean the representatives of the plan? A. Yes.

Q. Yes. A. And not to sign anything, that that day

2265

S. M. 834

we would definitely know whether we were to be an independent union or I.B.E.W. men and, of course, there was some protest about that.

Q. Did you protest? A. Not only myself, but several other men protested, and men who were supposedly representing us making our decisions without consulting us.

Q. Who did all the protesting, do you recall? A. Well, myself and O'Brien, Tommy O'Brien, and Fred Strooney. Well, they were the three, anyway.

2266

*David M. McCarthy—For N.L.R.B.—Direct*

Q. At that time, were you a member of the U.E.R.W.?

A. Yes. ○

Q. How long had you been a member of it at that time? A. Well, I would say about two weeks.

Q. About two weeks? A. Yes.

Q. And this was about the 20th of April, is that right?

A. Yes, sir.

Q. What was the nature of your protest outside of what you have already told us that you did not want these men down there making decisions for you? A. I pointed out that the company had always been, always had an anti-labor policy and Mr. Ruhl himself had always been very strenuously opposed to any labor organization.

2267

Q. Did you point that out to him? A. Yes, sir.

S. M. 835

Q. Did you tell him that in so many words? A. I did.

Q. How did you say that to him? A. Well, I said, "Mr. Ruhl," I said, "in view of the fact that this company had always been anti-labor and even against the old brotherhood," I said, "now you turn around and without consulting with the men, the company union, the company plan representatives are going to go down to 15th Street, and you know as well as I do that they are going to come back I.B.E.W., it is a foregone conclusion that you are just reversing every statement you ever made to me in the old brotherhood days and now again under the present situation."

2268

Q. What did he say? A. Well, in his talk he pointed out that the I.B.E.W. was an old established union and that it had previously had contacts with the Edison Company and I had pointed out that it was a contract not to organize the employees.

Q. What contract was that that you refer to? A. I am referring to a contract that is over in the Public Li-

brary, I think it was signed by Local 3 and the Edison Company.

Q. When? A. 1924.

S. M. 836

Q. I see, and what did Mr. Ruhl say? A. Well, he shrugged his shoulders and at that time he said, "I personally know that this company is bigger than any labor union and if you fellows know which side your bread is buttered on, you will go along with the company regardless of what union it should recommend or whether it should recommend no union at all.

2270

Q. Did you have anything further to say? A. Well, yes, I pointed out that it was un-American and un-Christian for the company union delegates who are supposed to represent us to go down to 15th Street without consulting us again and then come back and tell us that we have got to sign I.B.E.W. and I said, "The way in which they put it was that when you question them as to what they know about that organization they say, 'well, what am I going to do, stand up, I got a wife and family.'"

Q. Well, what is 15th Street that you refer to? A. That's the main office of the Consolidated Edison Company.

2271

Q. I see. And did Mr. Ruhl say that these delegates were down there? A. Yes, sir.

Q. Did he say with whom they were meeting? A. No, sir.

Q. Did Mr. Ruhl make any references to other labor organizations while he was addressing you? A. Any other?

S. M. 837

Q. Outside of the I.B.E.W.? A. Well, yes, one of the

2272

*David M. McCarthy—For N.L.R.B.—Direct*

things in favor of the I.B.E.W. was the fact that it was the I.B.E.W., it was less radical then the C.I.O. in the eyes of the company.

Q. Did he make any other statement? A. Well, not that I remember.

Q. Well, how long were you there at that meeting? A. Well, I would say about three-quarters of an hour, but immediately after the meetings the fellows would gang up in little groups to discuss it further with, well, the assistant foremen among themselves.

2273

Q. You weren't doing much work those days, were you? A. Well, no, sir, there was very little work done that whole week, there was a good deal of discussion on the floor.

Q. A lot of feeling among the employees? A. Yes, sir.

Q. Bitterness? A. Yes, sir, there was quite a bit of bitterness.

Q. Now, the following day you said that there was another meeting with Mr. Ruhl? A. Yes, sir, and at that time it was definitely established—

Q. Well, just a moment, was that at the same place?

2274

A. At the same place.

Q. At the same time? A. Approximately the same time.

S. M. 838

Q. The same group of men? A. Yes, sir.

Q. Called in the same way by the assistant foremen coming through? A. Yes, sir.

Q. And what took place at that meeting? A. Well, it was definitely established that the C.I.O. was going to be the union.

Judge Ransom: I move to strike that out, the argument to the answer.

**Trial Examiner Gates:** You concede that?

**Mr. Moscovitz:** I agree with the Judge on that, **Mr. Examiner**, I would like to put the question again.

**Trial Examiner Gates:** Very well, has the date of this meeting been fixed?

**Mr. Moscovitz:** Yes, it is the day after the meeting of the 20th, it would be the 21st of April, 1937, is that right?

**The Witness:** Yes, sir, I believe it was on a Thursday.

2276

**Judge Ransom:** The previous answer is stricken by consent?

**Trial Examiner Gates:** Yes, I thought this was the third meeting.

**Mr. Moscovitz:** This is the third meeting, isn't that right, **Mr. McCarthy**?

S. M. 839

**The Witness:** Yes, this is the third and last meeting.

**Q. (By Mr. Moscovitz)** Now, you say that you all assembled in the same hour? **A.** Yes, sir.

2277

**Q.** As the previous meeting? **A.** Yes, sir.

**Q.** Mr. Ruhl was there again? **A.** Yes, sir.

**Q.** What did Mr. Ruhl say this time? **A.** Well, he said it is definitely established now that what was formerly the company plan representatives are now I.B.E.W. representatives, and any further discussion, any question about the I.B.E.W. would be referred to your particular delegate.

He pointed out that it was only a temporary set-up, that we were still to continue under the company plan representatives and, well, there was some more discussion,



3278

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you know, some men resented the fact that the bosses should even discuss a union to the men and, well, it came out that Mr. Ruhl again pointed out that it was a big company and whenever it said there was to be no union, well, there was no union to speak of, and now that we were to have the I.B.E.W. it was safe to assume that we were going to have the I.B.E.W. and that we were all intelligent men and again said, "If you want to put it that way, sign up or else—"

S. M. 840

2279

He discussed the possibilities of a closed shop when the I.B.E.W. was signed up 51 per cent of the employees.

Q. He said that? A. Yes, sir.

Q. Go ahead. A. He did not know where the fellows who did not sign would stand, he said, "It's generally conceded when there is a closed shop those who aren't a member of the organization holding the closed shop, it just don't work," he said, "that is in any labor organization."

Q. Did he make any further statement? A. No, sir.

Q. And did the meeting then break up? A. Yes.

2280

Q. Went back to work? A. Yes, after having little private conversations in groups.

Q. Still were not doing much work; is that right? A. No, sir.

Q. And did Mr. Ruhl or any of his assistants ask any of you at that time to actually sign up with the I.B.E.W.?

A. No, they didn't come around with the cards, but they did go from bench to bench, talking to the men.

Q. Who did? A. Well, Mr. Hitchens, Mr. Kennedy.

Q. Those were the assistant foremen? A. Assistant

S. M. 841

foremen and first grade tester, which is looked upon as an assistant foreman, too.

Q. Which one is the first grade tester? A. Mr. Kennedy.

Q. Was Mr. Ruhl there, too? A. Yes, he was.

Q. Would he do the same thing? A. Well, he did most of his private talking to me, I will say, but while he was talking to me, Mr. Bradhurst, Mr. Kennedy, Mr. Hitchens, and Mr. Russell were going all over the floor.

Q. You saw them going all over the floor? A. Yes, and whenever possible I walked into the conversation.

Q. What did you see them do? A. Well, they would say, "Well, boys, have you signed up yet?" And if a man said no, why, they would say, "Well, you should, for obvious reasons. The company wants the I.B.E.W." 2282

Q. Did you hear them say that? A. Yes, each and every one of them.

Q. And was this circularization being done while Mr. Ruhl was on the floor? A. Yes, I'll say it was.

Q. And was it after the third meeting? A. Yes.

S. M. 842

Q. On the same day? A. Yes, continued all week.

Q. Continued all week? A. Yes.

Q. In other words, Friday as well as Thursday? A. Yes. 2283

Q. Did it continue Saturday? A. Well, we don't work Saturdays.

Q. Did it continue into the next week, Monday? A. Well, yes, but not on such a wide scale.

Q. I see. It is still going on? A. No, I just say no.

Q. When, to your knowledge, did it stop? A. Well—

Q. When did you last see it being done, rather? A. Say, Friday.

Q. Of this last week? A. Last week, yes.

Q. You don't mean the last Friday of this month, do you? This is June. Do you mean the Friday following

2284

*David M. McCarthy—For N.L.R.B.—Direct*

the meeting that you last attended in April? A. That's it, the last Friday in April, that's what I mean.

Q. Now, the last meeting that you attended was on a Thursday; is that right? A. That's right.

S. M. 843

Q. Then you say you saw it going on Friday? A. Yes.

Q. Then you saw it going on in a more limited way Monday; is that right? A. Monday, yes.

2285

Q. And it went on through up to the following Friday, as far as you know? A. Yes, to a very limited extent.

Q. I see. Now, did Mr. Ruhl or either one of the assistant foremen speak with you about becoming a member of the I.B.E.W. individually? A. Well, Mr. Ruhl spoke a lot about the advantage of joining the I.B.E.W. on the ground that it is the one that has the company okay.

Q. When was this? A. Well, right from the time that the announcement appeared in the paper.

2286

Q. This on the floor or outside of these meetings you have been talking about? A. Outside of those meetings.

Q. When was the last time he spoke with you about it on the floor? A. I'll say, let's see, on the 20th.

Q. 20th of April? A. 20th of April.

S. M. 844

Q. And what did he say to you? A. Well, he said I was silly playing the role of a martyr, as I was.

Q. What was the martyr that you were playing? A. That I was one of the few men that had refused to sign up.

Q. Did he tell you this while you were at work? A. Yes.

Q. What did you tell him? A. Well, I told him that if he could show me one good reason why I should join the I.B.E.W., aside from the fact that it had the company okay, that I would join it, but I said, "No man that is around here selling the I.B.E.W. gives one good logical reason for joining the I.B.E.W., outside of the fact," that is, as they expressed it, "Carlisle wants it."

Q. What did he say? A. Well, he expressed his opinion of all labor unions, that they can all be bought and handled, and if Carlisle had chosen to recognize the C.I.O., why, that could be handled in the same way.

2288

Q. Is that the last time he spoke to you about it? A. Well, no, practically every day we would have a little talk.

Q. Come over to your bench? A. Yes.

Q. Did he add anything to what he had already told

S. M. 845

you when he would speak to you the other times? A. Well, no, except that he told me that it was very foolish, again, to refuse to sign the I.B.E.W. card, that he admired my stand, and all like that, but still, it was very impractical to refuse to go along with the majority.

2289

Q. When was it that he told you that? A. I'll say at one of the private talks, during the first week after the I.B.E.W. was recognized.

Q. And were these private talks always at your bench? A. Yes.

Q. And did you notice whether or not he would go to the benches of other men after he left you to talk? A. Well, he walked from bench to bench, but I couldn't say that he talked—

Q. Was that his usual practice, to go from bench to bench? A. I wouldn't say so.

2290

*David M. McCarthy—For N.L.R.B.—Direct*

Q. Before that week, had it been his usual practice to walk from bench to bench discussing these things, then, discussing things with the men? A. No, it was not.

Q. Did you walk into any discussions that he was having with the men after the April 20th discussion with you? A. Well, no, he was about the only one of the assistant foremen that I did not break in on a conversation with.

Q. Now, did you sign up with the I.B.E.W.? A. No,

2291

S. M. 846

sir, not yet.

Q. You have not yet? A. No, sir.

Q. All right. When he told you that delegates of the plant who were meeting at 15th Street were to be the delegates under the I.B.E.W., did you know to whom he was referring? A. Well, yes, Eddie McGrath, Olesen, DelMonte, all of those company plan representatives.

Q. Any others? A. Well, it would naturally go for all these representatives.

Q. Do you know whether or not any of the men did become delegates under the I.B.E.W. after that date?

2292

Judge Ransom: Well, I object to his testifying to that. He hasn't shown that there are any such delegates under the I.B.E.W. The testimony of the government is that the local union met, organized and elected its officers. Whatever may have been the temporary leadership for a few days, that was the procedure.

Trial Examiner Gates: Answer the question. He can state what his knowledge is.

Judge Ransom: I submit he might testify well about the C.I.O., but I don't know how he could testify about an organization to which he does not

*David M. McCarthy—For N.L.R.B.—Direct*

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belong, as far as its personnel or officers are concerned.

Trial Examiner Gates: He may answer.

S. M. 847

Judge Ransom: Exception.

A. Would you repeat the question, please?

Trial Examiner Gates: Reporter may read it.

(Question read.)

S. M. 848

2294

A. Oh, yes, they all automatically become I.B.E.W. delegates.

Q. How do you know that?

Judge Ransom: I move to strike out that statement as contrary to the testimony of the government, obviously not within this witness' knowledge, calling for a conclusion or argument which he is not entitled to make.

Trial Examiner Gates: It may stand.

Judge Ransom: Exception.

The Witness: Well, assuming that a delegate has the power to collect dues, why, then the word of Mr Ruhl that they were temporarily at least I.B.E.W. delegates instead of company plan delegates.

2295

Trial Examiner Gates: Well—

Judge Ransom: Especially in view of the answer just given, I now renew my motion to strike out.

Trial Examiner Gates: It may stand, the motion is denied.

Judge Ransom: Exception.



2296

*David M. McCarthy—For N.L.R.B.—Direct*

Q. (By Mr. Moscovitz) Did any one of these men to whom you have just referred appear in your department at any time for the purpose of collecting dues or getting men to become members of the I.B.E.W.? A. Yes, specifically a delegate by the name of Olsen.

Q. Is that Harry Olsen? A. Harry Olsen, yes, sir.

S. M. 849

2297

Q. When was that? A. Well, the Friday after the I.B.E.W. was recognized, he was around collecting the initiation fee of \$1.50 or \$1.25 from several men.

Q. Did you see him? A. Yes.

Q. Did you see him? A. Yes, sir.

Q. Were you in his presence when he was attempting to collect the dues? A. Yes, sir.

Q. Did you hear what he said, yes or no? A. Yes, sir.

Q. Do you recall with whom he was speaking? A. Yes, sir.

Q. Whom? A. A man by the name of Walsh and Connolly, I think is the name.

Q. You say this was done in your presence? A. It was in my presence.

2298

Q. Well, what was said? A. Well, he had a little receipt book in his hand.

Q. Was this, by the way during working hours? A. Yes, sir.

S. M. 850

Q. What time of the day? A. Well, between two thirty and quarter of three.

Q. Were any of the foremen there? A. Yes, they were.

Q. Who? A. Well, I would say everyone of them.

Q. On the floor? A. Yes, sir.

Q. Will you tell me what took place? A. Well, they

walked up to a group of men with whom I had been speaking, that is Walsh and Tom Connolly, I think his name is, and he waved his little receipt book and he says, "Well, boys, do you want to pay your initiation today?" And Walsh refused and Tom Connolly said, "It is rent day and I can't afford to pay \$1.50 today."

And Olsen said "Well, do you want to pay part of it today?"

So he said, "I will pay 50 cents if McCarthy will pay the other dollar".

That was only fooling but he did pay the 50 cents and he got a receipt for 50 cents.

2300

Q. Does Olsen work in your department? A. Yes, sir, he is a meter tester.

Q. Had he been working at his bench since the I.B.E.W. was recognized? A. Well, it is hard to say,

S. M. 851

they are all over the place, really from bench to bench.

Q. And was that all that took place at that time? A. Yes, sir.

Q. Did you speak with Olsen about it, about his collection of dues? A. Well, I believe it was the following Friday, it was the next time he came around to collect dues.

2301

Q. That would be in the month of May? A. Yes, sir.

Q. Do you recall the date? A. No, I really don't specifically.

Q. Would that be May 7, 1937, about? A. I would say that is about the date, yes, sir.

Q. What took place on that day? A. Well, he was collecting dues and I protested on the grounds that I had spoken to Mr. Ruhl during the week.

Q. Had you spoken with Mr. Ruhl during the week? A. I had, yes, sir.

2302

*David M. McCarthy—For N.L.R.B.—Direct*

Q. After you first saw Olsen collect dues? A. Yes, sir.

Q. What had you told Mr. Ruhl? A. I asked Mr. Ruhl what was the company policy on men collecting dues? So he said, as far as he knew it was not to be done. He says, "I specifically gave Olsen orders not to do it any more", so this Friday I met Mr. Ruhl in the men's

S. M. 852

room and pointed out that I had been trying to get ahold of him all afternoon.

2303

Q. What time did you meet Mr. Ruhl? A. I would say about 4:30.

Q. And before that on the same day had Mr. Olsen been collecting dues again? A. Yes.

Q. When did you see him collecting dues? A. Well, off and on I would say from 4:30 on.

Q. Yes, and did you speak with Mr. Olsen while he was collecting dues? A. I did.

Q. What did you speak to him about? A. So he says, "Well, it is my job to do it".

Q. What did Olsen say? A. He said it is my job to do it, there is no use in fighting with me about it.

2304

Q. Well, did you ask him who gave him permission? A. I did, but he wouldn't answer me.

Q. I see, and was it then that you went to see Mr. Ruhl? A. Yes, I walked into the men's room to wash up and while I was in there Mr. Ruhl came in so I asked him right away about the collecting of dues. I told him it had been going all day, and he said, "Oh, no it has not!" So I said, "Well, I have been looking for you

S. M. 853

since about 2:30", I said, and "Olsen has been collecting all day". But he denied that it was true. I said, "Well, if you will just step outside here I will show you".

So he stepped outside the men's room and he was taking \$1.50 off of a man and he handed this man a receipt.

Q. Who was the man? A. Well, I forget his name right now, but he was transferred down—

Q. The man collecting was Mr. Olsen, that's what I want? A. That's the man that was collecting, yes, sir.

Q. All right. A. And I showed it to Mr. Ruhl and he said, "Well, what do you want me to do about it?" Or something to that effect.

So then I reminded him that he had said it was against company orders and he turned around and looked at the clock and he said, "Well, what are you going to do about it now, Mack?"

So I looked at the clock and it was about twelve or thirteen minutes to five and we quit at quarter to five.

Q. Well, when he said, "What are you going to do about it now, Mack?" did he make any further statement.

A. Well, he said no more but I told him that it was still illegal and as far as the Labor Board would probably be concerned, they would not be bothered with a little legal

S. M. 854

loophole like that, it is a moral issue, it is morally wrong, and that is that.

Q. He said that? A. Yes—no, I said that.

Q. You said that? A. Yes, sir.

Q. And was that the only discussion you had? A. Yes, sir.

Q. What did Mr. Ruhl do then? A. Well, he called Olsen into his private office and I went home.

Q. Yes, but at the time you left to go home had Mr. Olsen gone into Mr. Ruhl's office? A. Yes, sir.

Q. When you reported back the next day, do you know whether or not you found the practice continuing? A. That was on a Friday.

2308

*David M. McCarthy—For N.L.R.B.—Direct*

Q. Well, you have just been testifying about Friday, May 7th, is that right? A. Yes, sir.

Q. Are you now referring to the following Friday again? A. No, the Monday, the Monday.

Q. The Monday following the 7th? A. And about that time it had died down to a great extent, the company, the I.B.E.W. delegates were instructed, were, I was  
S. M. 855

2309

given to understand by Mr. Ruhl, they were to go back to their benches and just take care of their company duties, and that is all.

Q. When did Mr. Ruhl tell you that? A. He told me the previous Friday.

Q. I see. A. About May 7th.

Q. Yes, go ahead. A. And so far as I could see they obeyed that rule pretty good.

Q. Well, now, at any time after the 7th did you notice whether or not Mr. Olsen or anyone else collected dues again? A. Well, no, I could not say definitely, but he did make the rounds, and I asked him was he collecting, so he said, "No," but if anybody offers to pay, he said, "I will accept it."

2310

Q. When was that? A. Well, that was just last Friday.

Q. Just last Friday? A. Yes, sir.

Q. What do you mean, he was making the rounds?  
A. Well, walking around speaking to different men.

Q. During working hours? A. Yes, sir.

Q. Go ahead. A. I could not say that he was speaking about union matters or not.

S. M. 856

Q. Well, is it the general practice of employees to go from bench to bench during working hours? A. No, I would not say it is.

Q. Well, aren't there any rules laid down in your department on the question of whether or not you can leave your bench and go from bench to bench? A. Well, they don't hold you hard and fast to it unless you got to extremes of course..

Q. I see. Now, can you tell me whether or not on these other occasions when Mr. Olsen was talking to the men or collecting dues or having these discussions, there were present any of the assistant foremen that you have described before? A. Well, they were always not far away but I could not honestly say that they were really present.

2312

Q. But you would say it was their custom to be on the floor? A. Oh, yes.

Q. Where the men are working? A. Oh, yes.

Q. Do any of them have particular areas of the department assigned to them or do they go throughout the plant. A. Well, theoretically, Mr. Kennedy and Mr. Bradhurst are A.C. men and they confine their activities to the A.C. group.

Q. What group are you in? A. I am in D.C., a D.C.

S. M. 857

man.

2313

Q. And who was the D.C. man? A. There is a Mr. Alonza, usually in charge of the D.C. group at this particular time.

Q. Was Mr. Alonza in your group or the other? A. Well, he is classed as a D.C. man, he is working over in that section of the building.

Q. That is, Mr. Olsen was in your group? A. Well, he was classed as a D.C. man but he is generally over in that section of the building, that part that houses the A.C. section.

Mr. Moscovitz: That's all.



2314

*David M. McCarthy—For N.L.R.B.—Cross***CROSS EXAMINATION:**

Q. (By Judge Ransom) Now, what is the name of your Bureau or Department? A. The meter bureau.

Q. What's your work in that bureau? A. I am a meter tester, third grade.

Q. Now, how long have you been in the meter bureau? A. Seven years, just about, I started on May 5 or May 7, 1930.

Q. Where is the meter bureau located? A. The 10th floor of the 41st Street building.

2315

Q. At 41st Street and what? A. 41st Street and First Avenue.

Q. Now, the meter testing department is on what floor of that building? A. Sir?

S. M. 858

Q. I say the meter testing work is on what floor of that building? A. The tenth.

Q. The tenth floor? A. The tenth floor, yes, sir.

Q. Is that a very large building? A. Yes, it is quite a large building, it covers a full block and the test room that I am referring to covers the back half.

2316

Q. Now, does the tenth floor—is it about the size of a city block? A. Yes, sir.

Q. And the room where the meter testing goes on is one-half of that floor? A. Yes, sir, approximately one-half.

Q. Now, about how many men are there in the meter testing work at 41st Street? A. Well, I would say between 80 and 100.

Q. And they are all on this floor and in this one room? A. Yes, sir.

Q. You spoke about A.C. and D.C. Of course, to you, and perhaps to me, those are familiar terms. I asked

whether that refers to the type of meters or, more accurately the kind of electric current which is measured by particular types of meters? A. No, that is referring

S. M. 859

to the current.

Q. Yes. A. Direct and alternating current.

Q. That is, there are somewhat different types of meters? A. Yes.

Q. Used for measuring alternating and direct current?

A. That's right.

2318

Q. And both alternating current and direct current services are supplied by the Con-Edison Company in the Borough of Manhattan? A. That's right.

Q. Or parts of it? A. Yes.

Q. Now, on which kind of meters is your testing work primarily conducted? A. D.C., direct current.

Q. Now, will you explain for the record just what meter testing, as carried on in your department, consists of? What do you do there? A. Well, we take the meters off the system as they come back from the system after serving a specific length of time, and we clean them up, make any necessary adjustments and send them right back to the system.

2319

Q. The meters that you are speaking of are the meters that are owned by the company and are installed on Consumers' premises to measure service? A. That's right.

S. M. 860

Q. And those meters periodically have to be tested for accuracy to be sure that they are neither fast nor slow? A. That's right, within two tenths of a percent.

Q. Yes. And you speak of the required margin within which they must be kept accurate? A. Yes.

2320

*David M. McCarthy—For N.L.R.B.—Cross*

Q. Do you know if that is a margin established by the Public Service Commission of the State of New York? A. Yes, it is.

Q. That is fixed by an order of the Commission under the State Law? A. That's right.

Q. Well— A. That is, within three tenths of a percent, I should say.

Q. Well, you have not undertaken to give the full details of the Commission's requirements, but that is what it is basically. It is within— A. 99.7/1/2 percent.

2321

Q. Then, to put it perhaps a little more accurately, but still somewhat approximately, the electric meters cannot be fast but they have to be within a certain margin? A. Yes.

S. M. 861

Q. As to approximation to 100 percent? A. Yes.

Q. Below that amount? A. Below one hundred percent.

Q. And the Commission fixes that standard of accuracy? A. That's right.

2322

Q. Does the Commission also fix, by order, a period of time within which every meter on Consumers' premises must be brought in and tested for accuracy? A. Yes, it does. Well, not necessarily brought in, but it must be tested.

Q. It must be tested? A. Yes.

Q. Are you able to state as to direct current meters, what is the requirement of the Commission's order in the State of New York? A. I would say once every three years.

Q. The standard as to alternating current meters are the same, or something different? A. No, sir, once every five years, I believe it is.

Q. In other words, under the requirement of the Com-

*David M. McCarthy—For N.L.R.B.—Cross*

2323

mission, under the State law, every meter has to be, direct current meter, has to be tested not less than once in three years? A. That's right.

Q. Without the test it cannot lawfully stay on the

S. M. 862

premises of a local consumer? A. I believe that is the law.

Q. Are those tests of the meters in the first instance within that period, examined on the Consumers' premises? A. Yes.

2324

Q. And if a meter is found to need examination and work in the shop by way of calibration, it is then brought in to your meter Bureau? A. No, sir, we either replace it, but more generally we make the necessary repairs on the premises.

Q. You would say, in the run of cases, the meter is brought to the required standard of accuracy on the Consumers' premises? A. Yes, sir.

Q. But if, for any reason, anything in the condition of the meter requires shop work on it, then a new meter which has been tested is installed on the Consumers' premises and the one which had been there before for some period up to three years, is taken out and brought in to you? A. That's right.

2325

Q. And that process continually goes on with respect to every direct current meter and every alternating current meter in this local territory? A. Yes.

Q. The period of time being different as to the two

S. M. 863.

classes of meters? A. Yes.

Q. Now, is the work of your Bureau, or let us confine it for the moment to the work in which you are engaged, do you do work on the premises of the local consumer or only in the 41st Street meter shop? A. I am in the shops.

2326

*David M. McCarthy—For N.L.R.B.—Cross*

Q. That is, you are not a field man at all? A. No, sir, not at this time.

Q. How long since you have been a meter tester on consumer premises? A. I will say three years.

Q. So that your work is entirely with meters taken out of use on consumers' premises? A. Yes.

Q. And have been brought in to be inspected? A. Yes.

2327

Q. And made within the legal limits of accuracy under the Commission's order before they got out on the district again? A. Yes.

Q. And after they have gone through your shop, they go to stores from which meters may go out on the district later? A. That's right.

Q. Let me ask you this: Does the Public Service Commission of the State of New York, through its en-

S. M. 864

gineers or inspectors, participate in this testing of meters in which you are engaged? A. Well, to the extent that they check all our instruments in our laboratories.

2328

Q. That is, your laboratories up there in 41st Street are from time to time checked by the Commission's experts under some order of the Commission? A. Yes, they are.

Q. Now, how often are your instruments there tested for accuracy in behalf of the State Public Service Commission's representatives? A. Well, I don't know whether it is by order of the Public Service Commission or not, but our particular department, the meter and testing department, check all our instruments about, I will say, every three weeks.

Q. The Commission men come and do that? A. No, not the Commission men. They are our own men.

*David M. McCarthy—For N.L.R.B.—Cross*

2329

Q. Oh, your own men? Now, do the Commission men check any of your instruments? A. Yes, they go down to the Public Service Commission periodically from the test bureau and then the test bureau turns and checks our instruments.

I believe that is the—

Q. That is, your company maintains, at 41st Street, is it— A. 41st Street.

S. M. 865

Q. A testing bureau for the instruments that are used in the work in your department? A. Yes.

2330

Q. They do? A. They believe they check all through the system.

Q. And the instruments that are used in your department are submitted by the testing bureau to the Commission's representatives at the Commission's office? A. Sir?

Q. I say, the instruments that are used in your department are taken to the Commission's offices by the testing bureau of your company? A. I believe they are.

Q. And are tested and calibrated there? A. Yes.

Q. Do you know how often? A. No, I really don't.

2331

Q. But as you understand the matter, your work is wholly carried on in this meter bureau with instruments which have been tested periodically, by the Public Service Commission men? A. Yes.

Q. And do you know where the office of the Commission is? At which these tests are made? A. No, I really don't.

S. M. 866

Q. You don't know? A. No.

Q. Where is your testing bureau office? A. Van Damm, isn't it?



2332

*David M. McCarthy—For N.L.R.P.—Cross*

Q. What? A. I believe it is on Van Damm Street; isn't it?

Q. And your instruments go from the meter bureau at 41st Street to that testing station? A. Yes.

Q. You said you are on vacation now? A. Yes.

Q. And how much vacation a year do you get with pay? A. Two weeks.

Q. What is your rate of pay per week? A. \$26.40.

Q. For how many hours per week? A. A 40 hour week.

2333

Q. How many days a week do you work? A. Five days a week.

Q. During the time that you were a voter under the Employees Representation Plan, you voted and took part in nominations and elections? A. Well, on one occasion I did.

Q. Well, you mean you ran for office? A. No, sir.

S. M. 867

Q. But you did take part on one occasion that you have in mind in nominations and elections? A. Pardon me, I would like to qualify my answer a bit, you see, under the employees plan, I was handed a card. I did not sign it or anything else as did a good many other men.

2334

Q. Well, you mean the card gave you the right to vote? A. Stating that we were a member?

Q. Yes. A. You weren't asked whether you wanted to, the card was made out in your name and you were handed it and I understand that you were a member and I was asked to vote just as every other employee was, so while I was not exactly a member, I did participate in the one election, I voted.

Q. That is, you only voted in one of the elections that were held under that plan? A. Yes, sir.

Q. That was the election of the members of your bureau of your council? A. Yes.

Q. I mean the council of your bureau? A. That's right.

Q. Now, how many members were there of the council of your bureau? A. Well, I really don't know.

Q. Well, there were one for every fifty? A. One for every 50 men.

S. M. 868

Q. And you don't recall whether you had two members of the department council or one? A. Well, we had one at that time, that was the first election.

2336

Q. And you spoke about various persons who were first-grade testers and assistant foremen, so-called? A. Yes.

Q. And I think you mentioned Mr. Kennedy, Mr. Russell, Mr. Hitchings, Mr. Bradhurst? A. Yes, sir.

Q. And none of those were men who had any kind of duties which gave them the power to hire or fire employees, did they? A. No, sir.

Q. Do you know whether those men were or were not members of any labor organization? A. Well, as soon as the I.B.E.W. was recognized, why, they were the first group to sign up.

2337

Q. They signed up? A. Yes, previous to that.

Q. As a matter of fact, I judge from what you have said that practically everybody in your bureau signed up. A. You said—

Q. Well, there were only a few, that you were one of a few that did not sign, is that so? A. That is according to the statement of Mr. Rubl and Mr. Hitchings.

S. M. 869

Q. But in any event as far as Mr. Kennedy and Mr. Russell and Mr. Hitchings and Mr. Bradhurst, they were employees rather than bosses, weren't they, they had

2338

*David M. McCarthy—For N.L.R.B.—Cross*

no power to hire and fire? A. Well, they had not actual power to hire and fire, but they were in a supervisory position more or less.

Q. Oh, but they were eligible to become and did become members of the union, didn't they? A. Well, yes, sir.

Q. Do you know whether they were also members of the employees representation plan? A. Yes, they were.

2339

Q. And under that plan supervisors with any power of employment or discharge were not eligible for membership? A. I never heard anything to that effect.

Q. You never knew that? A. No, sir.

Q. Now, about Mr. Ruhl; what do you say his title was? A. Foreman.

Q. Was it in any way your understanding that he had power to employ or discharge? A. No, but—

Q. Well, he either did or didn't, you think he didn't? A. No, he didn't.

Q. Now, what you had in mind was that you think

S. M. 870

2340

that his recommendation, if he made one, might have carried weight? A. Yes, sir.

Q. Do you know whether Mr. Ruhl was a member of the employees representation plan? A. Yes, I do.

Q. He was? A. He was.

Q. Do you know whether at any of the times that you have been speaking about here today in April or May of 1937, whether Mr. Ruhl was or was not an officer, or a member of the I.B.E.W.? A. Well, he is today.

Q. You don't know at what time he joined? A. Well, I imagine he signed up with the first group.

Q. That is, you figured then that he was a member of the local I.B.E.W. practically from the time he started talking about this matter with you on April 19th or

*David M. McCarthy—For N.L.R.B.—Cross*

2341

20th? A. Yes. He announced that at the second meeting I referred to, that was one of his remarks.

Q. Now, you refer to various persons as delegates of the I.B.E.W. because they came around collecting dues; and you don't know in what capacity in behalf of the local union of the I.B.E.W. Mr. Olsen or anyone else collected dues? You don't know, do you, I am asking you whether you know. A. Well, if I can take Mr. Ruhl's word for it.

S. M. 871•

2342

Q. Well, they were what? A. They were I.B.E.W. delegates under this company plan.

Q. What do you mean delegates under the company plan, that they had been chosen for? A. As Mr. Ruhl explained it, the I.B.E.W. was just going to sort of take the place of the company—

Q. The I.B.E.W. was recognized as a bargaining agency whereas before elected representatives of the employees had been the bargaining agency, isn't that true? A. Yes, that's right.

Q. Now, you aren't suggesting to this Board, are you, or testifying here under oath that there was not, that the members of the local union of the I.B.E.W. did not hold an election and choose their officers and choose their members of the executive council or whatever it may be called and any other representatives for collective bargaining or for dealing with the employees, you don't know whether there was an election or not, do you? A. Well, yes, we were told.

2343

Q. I am asking you whether you knew it? A. Well, no, I don't.

Q. This Harry Olsen whom you say came on various occasions to collect dues, initiation fees, and dues, you don't know what position, if any, he held in the I.B.E.W.,

2344

*David M. McCarthy—For N.L.R.B.—Cross*

the local union, I am asking you what you know. A. No, sir.

S. M. 872

Q. Do you know or were you told as to whether he was or was not a member of the I.B.E.W.? A. Well, he told me himself.

Q. That he was a member? A. Yes, sir.

Q. What was his work with the company? A. What was his job?

2345

Q. Yes. A. He is a D.C. meter tester.

Q. That is he was a member of your bureau there? A. That's right.

Q. In fact he worked in the same room with you? A. Yes.

Q. Is that correct? A. That's right.

Q. How long had he been there? A. Well, I'll say about a year and a half, or two years at least.

Q. He was not a supervisor or anything of that sort, was he? A. Oh, no.

2346

Q. He was one of the men who, in 1936, had been elected by the employees in your bureau as their representatives for collective bargaining with the management? A. Yes, sir.

S. M. 873

Q. That is, he was a member of your bureau council elected the previous year? A. Yes, sir.

Q. And he continued in that capacity up to the time that the council was created by the employees under the representation plan, until the time that went out of effect? A. Yes, sir, and he still continues in that capacity..

Q. That is, you think, well, is it your understanding that there is a system of councils under the I.B.E.W.? A. Yes, sir.



Q. That's your understanding of it? A. Yes, sir.

Q. And your answers here today have been on the assumption that the same or a similar structure of organization continues? A. I understood—

Q. I am asking, your testimony is on that assumption? A. That's right.

Q. And that these men who had been in office, you assume or assert, these men who had been in office by votes of employees in the different bureaus in choosing their councils, in 1936, were, as you put it, automatically put into the same positions only it was called the I.B.E.W.? A. Yes, sir. 2348

Judge Ransom: I think that is all.

S. M. 874

Mr. Moscovitz: Just a minute.

### REDIRECT EXAMINATION:

Q. (By Mr. Moscovitz) Mr. McCarthy, Judge Ransom asked you some questions about the employee representation plan? A. Yes, sir.

Q. As I recall, he asked you whether or not the plan prohibited supervisory employees from membership? A. Yes, that is right. 2349

Q. Do you know whether or not the plan does? A. No, I never heard anything to that effect.

Q. Well, isn't it a fact that Mr. Ruhl and the assistant foreman are not members of the Employee Representation Plan? A. No, I wouldn't say it is.

Q. Do you know? A. No, I don't know for sure.

Q. Well, do you know at all? A. No, sir.

Q. So that you could not say one way or the other on that point, is that right? A. That's right.



2350

*David M. McCarthy—For N.L.R.B.—Redirect*

Judge Ransom: He does say they are members of the I.B.E.W. and you have put, yourself, in evidence over my objection the constitution of the I.B.E.W.

Mr. Moscovitz: Yes, now, I would like to put in the employee representation plan which provides that they cannot be members of the Employee Representation Plan.

S. M. 875

2351

Judge Ransom: I object to that because that makes it perfectly obvious what has been obvious all along, namely, that these men that he is talking about were men who were simply employees who were not agents of the management in these respects, they were talking in their own behalf as members of the I.B.E.W.

Mr. Moscovitz: This goes to the point that these persons were as a matter of fact supervisory employees and because of that were not permitted into membership in the Employee Representation Plan.

2352

Judge Ransom: Well, he has testified first that they were members and he has testified now to you that he didn't know, but he has testified, and I don't believe he will change it if they are members of the I.B.E.W. and if they were bosses they could not be in the I.B.E.W.

Mr. Moscovitz: Well, I am not at this point concerned with whether they are members of the I.B.E.W., we will come to that, but I am concerned with this plan at this point and I would like to ask the witness whether or not this is the Employee Representation Plan.

Mr. Ransom: Well, I will concede two things:

One, that these gentlemen concerning whom he has testified were members of the plan, and in the second place, that no persons with supervisory duties in the sense of general foremen or super-

S. M. 876

visory assistants, or general foremen and the like could or did become members of the plan.

Mr. Moscovitz: Well, do you say as a matter of fact then, Judge Ransom, that they were members of the plan, Mr. Ruhl and his assistants?

2354

Judge Ransom: Well, until you took him over, the witness had so testified.

Mr. Moscovitz: Well, it is my understanding—

Judge Ransom: I don't know.

Mr. Moscovitz: Well, it is my understanding that they were not, so you see I could not concede to that.

Judge Ransom: Well, whether they were or not, I don't know, that status was such and the duties were such as to entitle them to be voting members of the plan, I have no doubt.

Mr. Moscovitz: Do you think well, we will find out about that, but since it is conceded that this is the plan—

2355

Judge Ransom: Well, that is it.

Mr. Moscovitz: Well, it is the plan that was in existence at that time, as I understand it.

Judge Ransom: This, I think, is a copy of the employees representation plan as it existed December 18, 1935.

Mr. Moscovitz: And is this the plan then, can we say that this is the plan that was in existence at the time of the expiration of the plan?

2356

*David M. McCarthy—For N.L.R.B.—Redirect*

S. M. 877

Judge Ransom: There may have been minor amendments, made by the employees, but I know of none that are consequential since that date.

Mr. Moscovitz: I would like to offer this plan, Mr. Examiner, and I simply refer, for expedition in reading, to page 4, article 3, sub-section 1, which gives the rule for qualifications for voting and for membership in councils.

2357

Judge Ransom: I object to it. It is outside of any issue here. The complaint and the charge made no complaint or charge as to the employee representation plan. Such questions as I asked this witness were purely on cross examination as to matters concerning which the witness insisted upon testifying in a mistaken manner on direct examination.

We have got, over my objection, apparently one charge under section 8-2 of the Act, and there has been a persistent effort by indirection to create a similar charge against an organization not named, namely, this electoral system provided for in the plan.

2358

Trial Examiner Gates: Your offer is solely on the basis of whether or not Mr. Ruhl and other gentlemen were members, Mr. Moscovitz? I think it would be much better to establish that by somebody who could testify.

Judge Ransom: Obviously this could not be on the question of whether they were or were not members.

S. M. 878

Mr. Moscovitz: No, it is simply offered to show what the rule was on membership.

Judge Ransom: I have stated on the record that in the first place such supervisors, in the grade you have tried to make these men appear to be, could not belong under the plan; that in the second place, according to testimony of this witness, these persons whom you misrepresented are members under the plan, or were.

Mr. Moscovitz: I cannot take all these statements or concessions by Judge Ransom as misrepresentations, I am sorry.

Judge Ransom: I didn't mean that in an offensive sense. 2360

Mr. Moscovitz: I am sure you did not.

But Article 3 of this plan provides specifically that those employees identified with the management of the company, such as officers, department heads, dual heads, general foremen, and the immediate supervisory assistants of any of them, shall not be permitted to be members or to vote or to hold office or in any way participate under this plan, you see?

And it is simply that rule that I have been referring to and I think at this point it is quite proper that I offer this document which I do. 2361

Trial Examiner Gates: It may be admitted.

Judge Ransom: Exception.

S. M. 879

(Document referred to received in evidence marked Board's Exhibit No. 11, Witness McCarthy.)

Q. (By Mr. Moscovitz) As I recall your testimony, it was to the effect that delegates to the Employee Representation Plan were elected by the employees in your department. Is that right? A. Yes.

2362

*David M. McCarthy—For N.L.R.B.—Redirect*

Q. And that you participated in such election? Is that right? A. Yes, on one occasion.

Q. Do you know of any election where representatives of the I.B.E.W., who appeared in your department were elected?

Judge Ransom: Why, I object to that. What does the C.I.O. know about that? This is a question of whether he knows about the election of representatives, officers, and representatives of the local union.

2363

Trial Examiner Gates: Please read the question.

(Question read.)

Trial Examiner Gates: He may answer it.

Judge Ransom: Exception.

A. No, I do not.

Q. You testified that Mr. Ruhl could not hire or fire to your knowledge? A. That's right.

Q. Do you know whether or not he could recommend your discharge? A. Yes.

2364

S. M. 880

Judge Ransom: Objected to as incompetent, and leading. I assume anybody can recommend anything. What counts is power.

Q. (By Mr. Moscovitz) Well, does Mr. Ruhl have the power to recommend?

Judge Ransom: Objected to as immaterial. The witness could not possibly know.

Trial Examiner Gates: He may testify.

A. It is generally recognized that if a foreman like Mr. Ruhl recommends that you should be either transferred

or dismissed, well, you will be transferred or dismissed. It is only a matter of form that you report to 15th Street, and you know, go through the rest of it.

Q. (By Mr. Moscovitz) Well, when a man is to be transferred—

Judge Ransom: I move to strike out that answer as grossly incompetent and improper, wholly outside the witness' territory of knowledge, purely argumentative.

Q Trial Examiner Gates: It may stand.

Judge Ransom: Exception.

Q. (By Mr. Moscovitz) When a man is to be transferred in your department, is the actual transfer carried out by Mr. Ruhl? A. No, sir, he recommends it.

Q. He recommends it? A. Yes.

S. M. 881

Q. You know that? A. We know that for a fact.

Q. And if a man is to be discharged does he do the actual discharging or does he— A. No, sir, he recommends it.

Q. Well, who does it? A. Well, I really can't say for the rest of the procedure but I think it would go through Mr. Murphy.

Q. Will you outline for us then the procedure as it exists in your department?

Judge Ransom: I object to it as incompetent, purely outside of the witness' knowledge, purely an effort to create a significance for conversation which had none. I submit the Board—

Trial Examiner Gates: Well, I don't know that the objection would be necessarily put on the points mentioned, but I don't see that it has any particular bearing on this case.



2368

*David M. McCarthy—For N.L.R.B.—Recross*

Mr. Moscovitz: Well, is the objection sustained?

Trial Examiner Gates: Sustained. It is conceded, is it not, that any personnel matters are handled by the personnel department of the several companies.

Judge Ransom: Each company, I believe, has a personnel department.

° S. M. 882

### RECROSS EXAMINATION:

2369

Q. (By Judge Ransom) Your bureau is one of the independent bureaus of the distribution engineering division; isn't it? A. Yes.

Q. You are wholly independent of the other bureaus of that division. You operate by yourselves? A. Yes.

Q. For example, the test bureau is maintained as a bureau which checks constantly upon the accuracy of your instruments? A. Yes.

Q. That's all.

### EXAMINATION BY TRIAL EXAMINER:

2370°

Q. (By Trial Examiner Gates) You referred to Mr. Kennedy. That is not Mr. William J. Kennedy, who is a complainant in this case? A. No, sir, that is Mr. Frederick Kennedy.

Q. I believe you stated in answer to a previous question of mine that the third meeting was held on Thursday, April 21st. I will ask you to look at the calendar and state the date on which the three meetings were held, to which you testified. A. Well, I would say that would be April 5, 6 or 7th, or the 6th, 7th and 8th.

Mr. Moscovitz: Wasn't it the 20th, 21st and the 22nd?

*Gusta Harding (Recalled)—For N.L.R.B.—Cross*

2371

The Witness: I could tell better if I knew the exact date upon which the I.B.E.W. was recognized.

S. M. 883

Mr. Moscovitz: I understood your testimony to be that it was the 19th.

The Witness: I think that's right.

Mr. Moscovitz: The date the newspaper clipping appeared regarding the company's recognition of the I.B.E.W.

2372

The Witness: That's right. That would be the 20th, the 21st and 22nd.

Q. (By Trial Examiner Gates) Very well, that will be all.

(Witness excused.)

GUSTA HARDING, having been previously sworn, was recalled and continued his testimony as follows:

*Cross Examination:*

2373

Q. (By Judge Ransom) You were a station mechanic, second grade? A. Yes

Q. What is your rate of pay? A. \$43.68.

Q. For how many days per week? A. Five days per week.

Q. Hellgate is one of the large generating stations; isn't it, of the city? A. Yes.

Q. And Hellgate is continuously operated? A. Yes.

S. M. 884

Q. Day in and day out? A. Night in.

2374

*Gusta Harding (Recalled)—For N.L.R.B.—Cross*

Q. And so that it is a matter of shift of operation at all times? A. Yes, sir, for certain departments.

Q. For certain departments? A. Yes.

Q. For example, this week, you have Tuesday and Wednesday off? A. No, my days are fixed for Tuesday and Wednesday, I am on the day shift.

Q. You are on a day shift? A. In my department we have no rotation work except when special jobs come up.

2375

Q. So you are off every Tuesday and Wednesday? A. Yes, sir.

Q. Is that right? A. Under the present set up, that is, under the present schedule of work. That can be shifted by the foremen and the supervisors.

Q. Yes. Will you just describe what the nature of your work was, what you do? A. The nature of my work is repairing whatever machine parts come into the machine shop of the different machines, pumps, et cetera, that is, as far as welding line goes, for the ac-

S. M. 885

tylene welding.

2376

Q. Could you give some idea of how large the Hellgate Station is, does it occupy a block, or more than a city block? A. Well, it is two city blocks long, one city block wide, seven stories high.

Q. Where in the Hellgate Station is your machine shop? A. In the frequency exchange building on the third floor.

Q. And is that the main building or one of the accessory buildings? A. Well, it is one of the accessory buildings as far as operating the manufacture of electricity is concerned, the boiler room and the turbine room, including the pump room and ash cellar is in one building,

but generally the main office and certain galleries, store room, machine shop, pipe shop, frequency exchange and store room is located there and the locker rooms are located in this building.

Q. That is, you are not in the building where either the generation of electricity takes place or the transmission or distribution? A. Yes, I am shifted wherever the work calls me, either from the boiler room, pump room, turbine room, or whatever the case may be.

Q. You may be assigned to duties or to work as it is needed in those different departments? A. Yes, sir, I go in it.

2378

S. M. 886

Q. Your machine shop is in this other building? A. Yes, sir.

Q. What particular kind of work or part of the work of the station mechanic do you do? A. Well, I can do anything in the welding line, anything that has to be welded, no matter what part of the machinery or equipment that might be.

Q. That is, is it mostly repair work? A. Yes, mostly repair work and then it is some, I mean, construction work, of certain types.

2379

Q. Is that some new construction work? A. Some new construction work, yes.

Q. You say of certain types, what types? A. Well, such as strainer boxes, for straining salt water for certain pumps.

Q. That is for the condensers? A. Well, not in this particular case, this particular case it was, I think the pump is called the house salt water service pump which removes the ashes from the boilers.

Q. Oh, I see, but most of your work is repair work? A. Repair work of broken, worn out, and broken parts, for different machinery.

2380

*Gusta Harding (Recalled)—For N.L.R.B.—Cross*

Q. What part of your work, that is in some approximate idea of time, is done in the machine shop and what part around through the station? A. Well, all small jobs

S. M. 887

that comes to me that I can handle in the shop I would do in the shop. They have a little corner of the shop, what they call the welding shack and whatever job can be handled in there, we handle.

2381

Q. That is, you do the welding for repairs? A. Yes.

Q. And if— A. Also new pipe or pipe work or flanges that have to be welded.

Q. You do no work outside the Hellgate station? A. No, sir.

Q. And it is chiefly the repair of parts of operating equipment which break or wear out? A. Yes.

Q. Or are being replaced? A. Yes, in the regular maintenance crew.

Q. Now, you spoke about Mr. Nelson and Mr. Brady? A. Yes.

Q. Mr. Nelson works where? A. He is an electrical repairman.

2382

Q. In what department? A. Electrical operating.

Q. He is a repair man in the electrical operating department? A. Yes, sir.

Q. He is not a foreman or supervisor at all, is he? A. No, sir, not to my knowledge.

S. M. 888

Q. Do you know Mr. Brady, where does he work? A. He works in the boiler room, the main tanks, I don't know exactly what his title is, boiler room machinist, helper, or whatever it might be.

Q. Well, he is just a working man, not a boss? A. Yes, sir.

*Gusta Harding (Recalled)—For N.L.R.B.—Cross*

2383

Q. Do you know whether Mr. Nelson and Mr. Brady are members of the I.B.E.W.? A. I don't know definitely whether they are.

Q. As far as you know they may or may not be? A. Yes.

Q. Well, did you say that they came around to collect dues? A. I did not testify they came around, I testified they were sitting in the janitor foreman's office collecting dues.

Q. Is that the same time, at the time that you testified that they were in the office of what you call the janitor foreman? A. Yes.

2384

Q. And they were receiving dues? A. Yes, that's what the purpose was.

Q. You said there was no sign up on that office? A. Yes, in that office, the sign, there was no office, it was the boiler room office.

Q. Well, that is another time and place? A. Yes.

S. M. 889

Q. Well, this Mr. McCann, whom you call janitor foreman, is that his title? A. Well, I couldn't specify his exact title, that's what we call him in the plant because he don't come under the jurisdiction, that is, I will say he has nothing to do with us, but as far as that goes we call him janitor foreman.

2385

Q. Well, he is sort of a lead off man in the building service employees, isn't he? A. Yes.

Q. A building of that size, or station of that size has a considerable number of buildings service employees? A. Yes, to take care of—

Q. Well, he is one of them and has some responsibility about the work? A. Yes, well, he is not one of the janitors, his main job is to look after the janitors and to give them their job that they are supposed to do for the day.



2386

*Gusta Harding (Recalled)—For N.L.R.B.—Cross*

Q. That is, you think— A. That is, assigns them to the jobs.

Q. Do you think he has power to assign work, or parcel it out among the various janitors? A. Yes, I believe so.

Q. People doing janitor work? A. That's right.

S. M. 890

Q. Do you understand that he employs janitors? A. No, I don't think he has power to do that.

2387

Q. And does he have power to discharge janitors? A. I don't believe he has power to discharge but he can recommend discharge.

Q. Do you know whether he is or is not a member of the I.B.E.W.? A. That I don't know.

Q. You don't know whether he is or was not a voting member under the Employees Representation System? A. I don't know.

Q. I didn't get clearly your identification of the Mr. Idelback, who did you say he was? A. Mr. Idelback, it is my understanding, or it was pointed out to me, used to be a machinist in 41st Street Station, whether he was

2388

No. 1 or 2, I don't know.

Q. That's 41st Street? A. That is called Waterside.

Q. Waterside generating station? A. That's right.

Q. And that isn't the same as the 41st Street service building about which Mr. McCarthy testified? A. I don't believe so.

Q. Well, how was it you brought Mr. Idelback into this picture which you tried to paint? A. I was asked

S. M. 891

who started to collect the dues for the I.B.E.W.

Q. Do you know whether Mr. Idelback is still an em-

*Gusta Harding (Recalled)—For N.L.R.B.—Cross*

2389

ployee of the Consolidated? A. I don't know if he is an employee of the Con-Edison Company now or not, but I seen his name mentioned on I.B.E.W. leaflets, in what capacity I can't offhand say.

Q. That is he held some office or committee position or financial position or something of that sort with the I.B.E.W.? A. Right.

Q. And you are not able to identify it any more at this time? A. No, I am not able to tell you, to identify whether he is still on the Con-Edison payroll, or not.

Q. But in any event, while he was on the Con-Edison Payroll he was a regular employee of the 41st Street generating station? A. As far as to my knowledge, yes.

2390

Q. As far as your knowledge goes? A. Yes.

Q. And in any event you say that he came up to the

S. M. 892

Q. Hellgate Station and received payment of dues there at the times you mentioned? A. Yes, approximately the times.

Q. I think you referred to a sign about the payment of American Federation of Labor dues; was that a printed sign? A. No, it wasn't a printed sign, it was what I would call a hand-painted sign with black, whether it was paint or ink, I wouldn't say.

2391

Q. That was some one who took a large sheet of white Bristol board or cardboard? A. Paper, whatever it might be.

Q. And painted on it, blocked out with the black letters, "Pay American Federation of Labor dues here"? A. No, it did not spell the words American Federation of Labor. It spelled "Pay your A.F.ofL. dues here."

Q. A.F.ofL. dues here? A. Yes.

Q. Do you know whether that was a card which belonged to Mr. Eidellbach? A. I don't know.

2392

*Gusta Harding (Recalled)—For N.L.R.B.—Cross*

Q. Do you know whether he brought it with him when he came up there? A. I don't know.

Q. You are not suggesting that any one but Mr. Eidel-

S. M. 893

bach had anything to do with the sign, are you? A. No.

Q. You spoke about a Mr. Harrigan, whom you said was the bookkeeper, do you know whether he is a member of the I.B.E.W. or not? A. I don't know.

2393

Q. He was the man from whom you got the membership card which you signed? A. Yes, sir.

Q. Do you know whether he was or was not previously a member, a voting member of the employees representation plan? A. I was a member.

Q. No, whether he was, whether Harrigan was a member? A. I don't know.

Q. The Harrigan was not a supervisory boss at any time; was he? A. I do not know.

Q. He had no power to hire and fire, as far as you know? A. Not to my knowledge, no, but that is not in my department.

2394

Q. Well, you do not suggest, or claim, that he had any supervisory powers, whether he had any powers to hire or fire, do you? A. I can't do that, no, sir.

Q. Now, about John Eagan. Who is he? A. John Eagan is a first grade machinist, acting as assistant

S. M. 894

machine shop foreman.

Q. That is in your machine shop? A. Yes.

Q. Do you know whether he was and is a member of the I.B.E.W.? A. I do not know for sure whether he paid his dues or not. There are rumors going in between the men that he has paid, and I cannot verify whether he has or not.

*Gusta Harding (Retalled)—For N.L.R.B.—Cross*

Q. Well, let me ask you first. Do you know whether he did or did not sign as a member? A. I do not.

Q. You do not know? A. No.

Q. Do you know whether he was a voting member under the employee representation plan? A. I believe he was.

Q. Do you know or understand that he has any power to hire or fire men? A. No, he has no exact power of hiring or firing, but he could make a recommendation to foremen.

Q. That is, you think now that he is in part at least, an assistant foreman, or that he has power to make recommendations? A. Well, yes, if you are not doing the work you should do; or something to that effect, he could

S. M. 895

put in a word for you. I mean, to the effect that you can be laid off.

Q. Well, you testified to a lot of what is understood and rumored in your department. Isn't it understood in your shop that Eagan is a member of the I.B.E.W.?

A. No, I couldn't put it that way.

Q. You couldn't put it that way? A. No.

Q. How many men are there, all told, in the machine shop at Hell Gate? A. To my knowledge, it is, I believe, 74, counting the foremen.

Q. Well, I think you said that all but two of them had signed as members of the I.B.E.W.? A. That is what was told to me, yes.

Q. How old are you? A. The last birthday, 30.

Q. What? A. 30.

Q. When did you come to this country?

Mr. Moscovitz: I object to that, Mr. Examiner. I do not see that this has anything to do with this case.

2398

*John Symon (Recalled)—For N.L.R.B.—Cross*

Trial Examiner Gates: Objection sustained.

Judge Ransom: That is all.

(Witness excused.)

S. M. 896

JOHN SYMON, recalled.

*Cross Examination:*

2399

Q. (By Judge Ransom) You are also a station mechanic? A. Yes.

Q. At the Hell Gate Station? A. Yes.

Q. What particular type or kind of work as a station mechanic do you do? A. I am a machinist's helper. I help the first class machinist on repair work.

Q. Your place of work is in the same machine shop that Mr. Harding talked about? A. Yes.

Q. And you were sent out at times around through Hell Gate Station? A. Yes.

Q. And your work is all done either in the machine shop or when large equipment is involved, out in the station? A. Yes.

2400

Q. And you are entirely a helper on repair work? A. That is all.

Q. Now, your rate of pay is what? A. \$38.16.

Q. A week? A. A week, 40-hour week.

S. M. 897

Q. Five days? A. Five days.

Q. What are your days off? A. Tuesday and Wednesday.

Q. You spoke about Mr. Anderson. Who do you say he is? A. He is the foreman of the machine shop.

Q. Of the whole shop? A. Of the whole shop.



*John Symon (Recalled)—For N.L.R.B.—Cross*

Q. That is, of how many employees? A. 73 men under him.

Q. Is he your immediate superior, or is there somebody else in between? A. Well, I take orders from Mr. Anderson. When he is off, I take orders from Mr. Eagan, also Mr. Armstrong, if he has any job to send me out on, to help him.

Q. Well, Mr. Armstrong—what is his position? A. He is assistant engineer.

Q. Do you know whether Mr. Anderson is a member of the I.B.E.W.? A. Well, I couldn't say because I never saw him sign any cards or anything to that effect.

Q. Well, is it your understanding and the understanding in the shop that he is a member? A. Well, he never specified.

S. M. 898

Q. What? A. He never specified that he was.

Q. Do you know whether he was an employee who voted under the representative plan? A. That I couldn't say, I couldn't say.

Q. You don't know? A. No.

Q. You don't know whether he did or not? Does Mr. Anderson hire the men for the machine shop? A. No, sir, he does not hire them.

Q. Does Mr. Anderson himself discharge men from the machine shop? A. No, but he recommends discharges.

Q. You think he has power of making recommendations of discharge? A. They could send you to Mr. Armstrong and they could send you to the assistant superintendent, or the superintendent for your discharge. He would have to proceed all through that before you got discharged, I presume.

Q. That is, the power to discharge is in the hands of



2404

*John Symon (Recalled)—For N.L.R.B.—Cross*

these other people? A. Well, I have never been discharged yet, so I don't know who does the discharging.

Q. In any event, you know that if Mr. Anderson makes a recommendation, that it goes first to Mr. Armstrong, then goes up to the assistant superintendent? A. Yes.

S. M. 399

Q. Of the station? A. Yes.

Q. That's all.

2405

(Witness excused.)

Trial Examiner Gates: We will recess for five minutes.

(Whereupon, a short recess was taken.)

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AFTER RECESS.

Mr. Moscovitz: I have no other witnesses to call for this afternoon, Mr. Examiner, the rest of my witnesses are to appear in the morning.

2406

Mr. Straub, I thought, was going to take the stand at this point for cross examination, so that he would take up the balance of the afternoon. He would take up the afternoon and perhaps some part of the morning.

Judge Ransom: The material which I expected has not arrived, so I think perhaps if you will give me a few minutes I will be able to occupy part of the time, at least.

At this stage, assuming that you have no further amendments to the complaint, there are no further amendments, are there?

Mr. Moscovitz: No, sir, not at this point.

Judge Ransom: Then I desire to file an answer.

*John Symon (Recalled)—For N.L.R.B.—Cross*

2407

The legal filing was made today and these are mimeographed copies.

S. M. 900

Trial Examiner Gates: At this stage of the proceeding I believe the answers to be legally filed should be filed as a part of the record.

Judge Ransom: I was going to cover it in both ways. I file as a part of the record, subject to the reservation of the rights therein shown, a copy of the answer verified on behalf of the respondent to the complaint as amended to include to June 14, 1937. I take it no point is made that the document which is produced here is not a verified original.

2408

Mr. Moscovitz: No point.

Judge Ransom: I don't know just what your procedure is as to the incorporation of that into the record.

Trial Examiner Gates: Was there a verified original prepared and filed?

Judge Ransom: This is the first time there has been an answer.

Trial Examiner Gates: No, but you stated—

2409

Judge Ransom: The original three copies required for what you may call ordinary service have been filed with the Regional Director.

Trial Examiner: There being no objection, the answer is received at this time, but I suggest that the verified copies be substituted for the copy now filed, for the purpose of the record.

S. M. 901

Judge Ransom: Well, if Mr. Moscovitz will produce that tomorrow, we may do that.

2410

*Harold J. Straub (Recalled)—For N.L.R.B.—Cross*

Mr. Moscovitz: I will produce it before the conclusion of the hearing and substitute it for the one that is now being introduced.

Judge Ransom: With that understanding, it may be temporarily marked.

Trial Examiner Gates: Yes.

(Document referred to was marked Respondent's Exhibit No. 7 for Identification.)

2411

Judge Ransom: We will make a start with Mr. Straub, if I may.

HAROLD J. STRAUB, recalled as a witness, testified further as follows:

*Cross Examination:*

Q. (By Judge Ransom) Mr. Straub, when did you become a member of the council of your department in the Bronx Gas & Electric Company under the employees representative plan? A. March, 1934.

2412

Q. And who elected you to the council? A. The employees of the Bronx Gas & Electric Company, specifically, the employees of the line department of that company.

Q: When did you become chairman of the council for the whole company? A. March, 1935.

S. M. 902

Q. And who elected you as chairman? A. The elected representatives of the employees of the entire Bronx Gas & Electric Company. In other words, the members of the general council.

Q. How many employees did the Bronx Gas & Electric Company have, approximately, during that time, do you

*Harold J. Straub (Recalled)—For N.L.R.B.—Cross*

2413

know, and down to the time it was merged into the Consolidated Edison Company, with the approval of the committee? A. I cannot give a direct answer. I can say approximately between four and five hundred employees.

Q. In the whole company? A. That's right.

Q. I ask you, do you know the date as of which the Bronx Gas & Electric Company was merged into the Consolidated Edison Company with the approval of the Public Service Commission of the State of New York? A. I can only quote as an answer the statement of Mr. Carlisle made to us on December 23, 1936.

2414

Q. You quote him as saying that is the date on which the merger was authorized by state law? A. No, I do not.

Q. Is that the date he gave you? A. No, I say I could quote him as making a statement on December 23rd. I

S. M. 903

do not say he said that was the date that went into effect.

Q. You refer to the fact that you and other general council foremen met with Mr. Carlisle on that date? A. Not only was I referring to the fact that we met with him on that date, but I was referring to a statement made by Mr. Carlisle on that date, to the effect,—oh, he went into a great big lengthy statement that for the first time in so many years the books were clear, and so forth, and that from now on the Bronx Gas & Electric Company has been merged into the Consolidated System—

2415

Q. Possibly you could have answered whether it was that you met with him on that date, December 23rd? A. If you are asking me if I met with him on that date, the answer is very definitely yes.

Q. That is what I was trying to find out. And on that date, he told you that the merger had been legally effective as of that date? A. He certainly did not. He told

2416

*Harold J. Straub (Recalled)—For N.L.R.B.—Cross*

us that the merger had been effected. He did not speak of that exact date.

Q. Oh, I see. When did the merger become effective, so far as the merger or consolidation of your department into the like department of the Consolidated Edison Company? A. I can't give any specific date. I can say that immediately after, or around February, different department heads from Consolidated Edison Company

S. M. 904

2417

came up and began taking over various sections of our department.

Q. Was it as late as that? Didn't that begin to take place during January? A. Not that I can recall. It may have. I wouldn't say it did not.

Q. In any event, at that time you continued reporting to Purdy Street, which had been your headquarters before the merger? A. That is right.

Q. Now, the Bronx Company was a relatively small company which served electricity and gas in the East and the Northeast Bronx? A. We served the territory known as the East Bronx.

2418

Q. Yes. A. It was a relatively small company in comparison to some of the others.

Q. Yes. Do you know whether part of its territory formerly was in Westchester County? A. The territory now served by the Consolidated Edison Company?

Q. Was part of the territory of the Bronx Company formerly in Westchester County before it was annexed? A. I don't quite understand you. I cannot say that part of the territory of the Bronx Company was in Westchester. On the other hand, the territory that was served

S. M. 905

right after the merger by the Bronx Company had for-



*Harold J. Straub (Recalled)—For N.L.R.B.—Cross*

2419

merly been served by the Westchester Company. The answer is in the reverse.

Q. Well, it may not be very important, no matter, do you know whether Mr. Rosenquest, at the time you became a member of the council under the employee representation plan, whether Mr. Rosenquest was president of the Bronx Company? A. Yes, he was, up until the time he died.

Q. And then he was president, he had been president of that company for a good many years? A. Well, I don't know just how long.

2420

Q. You don't know? A. How many years, I know he had been president.

Q. He was president all the time you were there? A. That's right.

Q. Sometime while you were working for the Bronx Gas & Electric Company, he became president of it, that is some time during that time, also of the Westchester Lighting Company and the Yonkers Electric Light & Power Company? A. I can't recall if that took place while I was working for the company or not, but I do know I distinctly recall him being president of three companies.

2421

Q. I think that you said as to management and collective bargaining matters, the Bronx Company and the Westchester Lighting Company and the Yonkers Com-

S. M. 906

pany were treated together or, at least, management acted through one management committee? A. Well, they are not treated together, and I definitely did not say that they were treated together, I said that there was a management committee appointed by the management of the Westchester Lighting Company.



2422

*Harold J. Straub (Recalled)—For N.L.R.B.—Cross*

Q. And it was the same management committee as to collective bargaining matters which acted for those three companies? A. The secretary of that management committee definitely did, we never met with him, the entire management committee.

Q. Well, do you know whether the committee had the same members? A. I assume that they did.

Q. Yes, and Mr. Rosenquest subsequently died? A. That's right.

2423

Q. And was succeeded as president of the three companies by Mr. Pizzano? A. That's right.

Q. Up to the time of the merger, the management committee with which you dealt through the secretary was asked for the Bronx and Yonkers Company's management committee— A. Never having met with the management committee as a whole I could not definitely say that it was, I could only say the assumption was that it was, not definitely, I don't know anything about Yonkers and Westchester.

S. M. 907

2424

Q. Well, you testified about the starting of the employees representation plan, is it your statement and understanding that the management at the end of 1933 or early in 1934 proposed a vote by the employees as to whether they wished some system of collective bargaining? A. I don't believe it was in 1934, it was 1933, the plan was in existence for a year before I became active in it, I mean an officer in it.

Q. Well, leaving out at the moment the question of date, the management first asked whether the employees wished to take a vote as to the setting up of some method of collective bargaining through elected representatives. A. They asked the employees through the committee that

had been sent up there to see the management, incidentally, the committee was set up by various department heads, not by the employees.

Q. A committee of employees? A. Directed to appear at the Westchester Lighting Company executive offices by department heads whom they worked for, yes.

Q. You were, you said,—that you cooperated with the management about the circulation of those petitions? A. I did.

Q. You understand that those petitions were circulated calling for a vote on the matter, they came from 2426

S. M. 908

the management? A. That's right, they were drawn up by the management, printed by them and given to us to circulate around the employees, which we did.

Q. And the employees to whom you presented these petitions signed them if they thought there ought to be a vote on the question of setting up some plan of collective bargaining? A. Yes, they signed that.

Q. Well, that is what the petitions were about, wasn't it, the petitions were requests to the management to provide some vote upon the question of setting up a plan of collective bargaining, weren't they? A. You can probably call it more accurately than I can, you probably have a copy of the last one, because the last one I saw was in 1933. 2427

Q. Well, isn't that what you understood they were for? A. If I can remember correctly, yes.

Q. And those petitions were turned in to the management? A. I am not definite on that point, whether they were turned in to the management or not, I have tried to recall just what we done with the petitions, but I think that they were turned in to the management.

2428

*Harold J. Straub (Recalled)—For N.L.R.B.—Cross*

Q. Well, in any event, later there was a vote of the employees taken upon the question of whether it should be set up—whether there should be set up some plan for

S. M. 909

the choice of employee representative? A. It went through several different stages, there was first a vote taken on the Board of Tellers, rather, the temporary Board of Tellers to conduct a vote on the actual referendum or whatever you might call it, and so on.

2429

Q. Is that the first the employees voted—you mean they first voted and they themselves elected a temporary board of tellers from among their number to conduct a vote of the employees on some plan? A. I am glad you brought that out, they did not. The various department heads selected them, the employees in the departments to act as the temporary board of tellers.

Q. Well, was it a temporary board of tellers? A. Yes.

Q. But, then, didn't the employees themselves elect tellers? A. Later, yes.

Q. At a later date? A. Yes.

2430

Q. And the tellers chosen by the employees themselves actually conducted the election to which you referred? A. That's right.

Q. Now, do you recall whether the vote of the employees, when it was taken, was upon two questions: First, a general question as to whether the employees wished some system of collective bargaining through representatives elected by themselves set up; and then, in

S. M. 910

the second place, a vote for or against a particular plan? A. That's right.

*Harold J. Straub (Recalled)—For N.L.R.B.—Cross*

2431

Q. Well, do you recall whether this initiation of the employees of representation plan, if we may call it that—  
A. It's all right with me.

Q. —took place at the end of December, 1933, or early in 1934? A. I have some notes as to just when I was elected on this council. Perhaps they might help me recall. I know it was a year previous to my election that the first election of representatives was held.

Q. Well, of course, before any representatives were elected to the council, first there was an adoption of a plan? A. That's right.

2432

Q. And the Trial Examiner asked if we can fix more definitely the dates of these electoral processes? A. That is what I am trying to do.

Judge Ransom: I may say for your Honor's information that that was the data which I had expected to have sent down today which gave those things in documentary form as to dates.

Trial Examiner Gates: Well, as long as it is in the record definitely.

Judge Ransom: I am going to cover it very

S. M. 911

2433

definitely. I am necessarily dealing with these matters in a generalized way because I have not the documents which will fix the dates.

Q. (By Judge Ransom) Well, some time in the winter or early Spring of 1934 the vote of the employees was taken upon those two questions? A. Yes, in March of 1934 was the first election of representatives in the Bronx Gas & Electric Company. Now, there was a voting prior to that.

Q. Yes. So that some time during either December

2434

*Harold J. Straub (Recalled)—For N.L.R.B.—Cross*

of 1933 or the early months of 1934 there had been this balloting on the two questions? A. I am not positive, I think it was February of 1934. Incidentally, I made a mistake before. I said 1933.

Q. In any event, it was not earlier—that is, the Bronx Company was not earlier than January of 1934, January 1st? A. Not that I can recall.

Q. You may recall that in December or at the end of November, 1933, there had been a similar vote in the New York Edison Company? A. Oh, no, I cannot recall that.

2435

Q. You cannot recall that? A. We knew nothing about that.

Q. You didn't know anything about that? A. No.

S. M. 912

Q. You didn't mean to testify as to what took place in any of the other companies because you didn't know? A. Absolutely not.

2436

Q. Do you recall what was the result of the vote of the Bronx Company employees on the first question, as to whether this should be set up, whether some plan should be set up? A. The result was obviously in favor. The plan was set up.

Q. The vote was favorable on both questions? A. Yes, but I can't recall the exact number of votes.

Q. Can you identify this as a copy of the plan which was put in force as to the Bronx Gas & Electric Company (showing witness document)? A. Yes. Now, let me see—there was some change made.

Q. I believe that is the copy which contains the subsequent stipulation which was made in the Bureau Councils.

(Document referred to was marked Respondent's Exhibit No. 8 for identification, Witness Straub.)



*Harold J. Straub (Recalled)—For N.L.R.B.—Cross*

2437

Q. (By Judge Ransom) Being a relatively small company, as you stated, did the Bronx Gas & Electric Company representation plan have any system of what you may call Bureau Councils and Department Councils such as have been testified to here in the case of the larger companies; or was there representation directly from the bureau into the general council for the whole company? A. If you will read over the plan you will see that regardless of how large or how small a department

S. M. 913

2438

was, if it only comprised two men in the department, it was first called a bureau council and then a department council. These men started from among themselves if there were two one was to be the chairman and the other one had to be the secretary, that was the department council, and it followed in line up to the general council.

Q. Well, did you have the intermediate councils as they did in other companies, that is, were the bureau councils in turn represented in the department councils, and then the department councils in the council for the whole company, the general council? A. In our commercial relations department, I don't know whether it was called the commercial relations department at that time—

2439

Q. I think it was simply called commercial, wasn't it? A. Yes, commercial, I don't recall the exact title of the department, but I know they had three elected representatives in that department, in all matters relating to that department they functioned as a department as bureau council. They contacted the man in charge of that department for the employees, therefore I would say the functions of the department council were carried out in our plan.

Q. What were the different departments for the purposes of the operation of your council at the start? A.



2440

*Harold J. Straub (Recalled)—For N.L.R.B.—Cross*

S. M. 914

I think you'd better read them; I forget them also.

Q. Well, you had the various department representatives which are shown in Respondent's Exhibit 8 for identification, each of those departments was represented in the general council by the department chairman?

(Respondent's Exhibit 8 for identification passed to the witness.)

2441

A. That's right. Wait, not always by a department chairman, sometimes a man was bureau council, the bureau council department and a member of the general council all rolled in one.

Q. But by whom was he chosen? A. By the employees of the department.

Q. As they elected by secret ballot their representatives from the department to the general council? A. That's right.

Q. And he was not necessarily the chairman of the department council? A. What is that?

2442

Q. He wasn't necessarily the same person as the chairman of the department council? A. Oh, yes, in those departments that have more than one representative, these people had to agree among themselves which one they decided upon as the chairman of that council and he was the man that was then eligible for membership on the general council.

S. M. 915

Q. Was he elected to the general council by the department council, or was he elected to the general council by the employees in the department? A. The departments that had only a large enough number of employees in the departments to elect only one representative, that

*Harold J. Straub (Recalled)—For N.L.R.B.—Cross*

2443

man went right to the general council and those representatives that a large enough number of employees to elect more than one representative they, in turn, elected their own chairman and he in turn came to the general councils.

However, I believe the first year that the plan was in operation, the first general council decided that inasmuch as there was only one department that had at that time more than one representative, that the three of these people would be allowed to sit as members of the general council, but only one of them would have the right to vote as a member of the general council, the other two sitting there without vote but with voice in matters relating to the employees.

2444

Q. With respect to the election which was first held on the question of whether there should be some system of collective bargaining set up and whether a particular plan should be adopted, likewise in the elections which took place for the choice of representatives by the em-

S. M. 916

ployees, was all the voting done by secret ballot? A. In the departments?

2445

Q. Yes. A. You mean these different departments?

Q. Yes. A. Yes.

Q. The employees voted by secret ballot? A. Yes. I find no fault with that, though, that is all right.

Q. And the voting was for the purpose of those elections, the voting booths were of the type used in elections? A. No, just a minute, Mr. Ransom. We were a small company, we did not spend money like the Edison Company.

Q. You had no voting booth? A. We sneaked over in the corner and marked the ballot, two or three fellows there, they would look over one another's shoulder, but

2446

*Harold J. Straub (Recalled)—For N.L.R.B.—Cross*

that was all right, we trusted each other, we worked together many years.

Q. It was as secret as you wanted? A. As secret as could be expected.

Q. In your small company, you did not go to the expense of having voting booths as they did in the large companies? A. You did not know Mr. Rosenquest or you wouldn't ask that.

2447

Q. Well, he is dead, but in any event, what expenses you had for the printing of the notices, the printing of the ballots and the other necessary expenses of the election, they were paid by the company, were they not? A. Oh, yes.

S. M. 917

Q. Upon the certification of the general council or its chairman? A. The first elections, and my going around with the petition, and everything that had to do with the setting up of the first general council was paid voluntarily by the company, there was no one there to submit a bill, I mean, we weren't in existence, the council could not submit a bill for something they had not incurred.

2448

Q. Well, the management announced that the expenses of this election on whether there should be set up a plan would be paid by them? A. That's right.

Q. And then after the general council came into being, the necessary expenses of printing ballots and petitions and the like was paid by the company? A. The reasonable necessary expenses incurred and so on, it is all stated in there, the answer is yes.

Q. I mean it was operated— A. Yes.

Q. In the manner described? A. In accordance with the plan.

Q. Yes. A. Yes.

*Harold J. Straub (Recalled)—For N.L.R.B.—Cross*

2449

S. M. 918

Q. And that was upon the certification of the general council or its chairman? A. I believe so, yes.

Q. You spoke about the fact that as chairman you were allowed pay for your time spent in the work of the general council chairmanship? A. I believe you have got the wrong impression, Mr. Ransom, I don't recall saying that, I recall saying that any time that I spent as chairman of the council or in contacting employees and so on, my time was carried the same as if I was on a job.

Q. Yes, that is right. A. I did, however, say that we had, or, rather, I had, as chairman of the council an expense account.

2450

Q. That is in addition, isn't it? A. Entirely aside from the council itself.

Q. But let's take a day in which you spent some time in your regular work and some time in the work of the employees representation plan, your time, you were paid for that day without any deduction? A. That's right.

Q. Part of your time was charged, what you might call, to the operating or construction account of the company, the work in which you were engaged and part of your time was charged to the E.R.P.? A. Definitely not.

2451

S. M. 919

Q. Not in the case like that? A. No, all of my time on the E.R.P. was buried, none of my time—

Q. Your company did not have separate accounts on the E.R.P.? A. Oh, no, definitely not, that all went under a definite job number, they selected a gang that I was supposed to be out with and that foreman put my time in or rather the supervisor put it in.

Q. You are sure in the case of your company? A. I am positive.

2452

*Harold J. Straub (Recalled)—For N.L.R.B.—Cross*

Q. That your time was not in any way charged to an account through which a record was kept of the time spent on E.R.P. work? A. I can go further than that, Mr. Ransom, and tell you that not only in the Bronx Gas and Electric Company but after the merger into the Consolidated Edison Company, I can give you the names of the foreman that carried my time for months and I never worked with him. I can give you meetings I attended.

2453

Q. How long, you say months in your argumentative way, how many months could it have been? A. I am sorry, if it is argumentative, I didn't mean to be.

Q. I know you wouldn't be argumentative to the C.I.O. for anything, but you wish to say positively that in neither the Bronx Company nor in the Con-Edison Company the

S. M. 920

time spent on the employees representation plan worked in either company was it charged to that or a similar account? A. I can state positively that never in the Bronx Company was any of my time ever charged to the E.R.P.

2454

I state further, at least in part, since the merger of the Bronx Company with the Consolidated Company, at least part of my time that I spent as an employee representative was not charged as such.

Q. Your necessary disbursements you said for carfare and phones were charged to E.R.P. expense account? A. Not phones.

Q. You didn't do it? A. Not for phones—carfare and lunch money, yes.

Q. But such disbursements as you turned in, you said they ran up to \$2.50, were charged to the E.R.P. account? A. No.

Q. They were not? A. No, there was no E.R.P. account in existence, it was a definite account but it was not an E.R.P. account.



*Harold J. Straub (Recalled)—For N.L.R.B.—Cross*

2455

Q. All right, we will have to see how far you are right about that. A. I will give you the account name, if you want it.

Q. Yes, what was it? A. We had a definite charge, miscellaneous expenditures incurred in connection with

S. M. 921

employee activities. Does that sound like E.R.P.?

Q. Did the councils or the E.R.P. have any funds from dues or any other sources? A. Absolutely not.

2456

Q. You stated that while you were chairman of the general council for the Bronx Company, operated that quite independently of the other councils in the Consolidated Edison System. Is that correct? A. We operated for the employees of the Bronx Gas & Electric Company independently.

Q. Yes? A. I mean by that we contacted the management of that company for those employees.

Q. Yes? A. But nevertheless, we had on many, many occasions met as a group in various councils throughout the system.

Q. You talked about the independent manner—I am quoting from page 91 of the record, in which the Bronx group had attempted to remain, by refusing to affiliate themselves, with any of the other existing councils at that time? A. That should be amended to read the manner in which we did remain, not just attempted. We did remain.

2457

Q. But you say you both attempted to do it and you

S. M. 922

carried it out? A. I amended that to read that we did do it.

Q. You, of course, said, "attempted" at that time?

A. That was last Thursday, Mr. Ransom.



2458

*Harold J. Straub (Recalled)—For N.L.R.B.—Cross*

Q. I have no doubt that you will amend many things by now? A. Oh, I don't think so.

Q. You spoke, when you were on the stand about a meeting of the general council chairmen with representatives of management in July of 1936? A. That's right.

Q. And that was for the purpose of announcement in conference regarding the restoration of the balance of the 8-1/3 percent reduction that had been made in 1934? A. That's right. I can give you the exact announcement.

2459

Q. Well, that reduction was a reduction that had been made at the time the companies had signed the President's re-employment agreement under the N.I.R.A.? A. Let me get that straight—

Q. Reduction had been made in connection with and at the time of the company's signing of the what was called the President's reemployment agreement under the N.I.R.A.? A. Oh, no, no, no. The first restoration had been made then. The reduction had been made much before that. That was the date the first restoration was made. There were two restorations. The reduction had taken place long before that.

2460

S. M. 923

Q. What do you say was the date of the reduction? A. I cannot accurately—maybe I can—May 1st, 1933.

Q. And that reduction—there was a reduction in the hours of work at that time was there not? A. That's right.

Q. There was a reduction in the hours of work without increase in the rate of pay per hours? A. That's right.

Q. So that the net effect was to decrease the amount that came in the pay envelope? A. That's right.

*Harold J. Straub (Recalled)—For N.L.R.B.—Cross*

2461

Q. For example, the 38 and 40 hours employees went to 35 generally or, in some instances, 37.50? A. I can only state for the department that I was in, that we worked on a 48 hour week. We went to 44 hours.

Q. You went to 40? A. No, 44.

Q. In your department? A. That's right.

Q. Is that right? A. We later went to 40.

Q. And there was no increase in the rate of pay per hour. That, in effect meant a decrease in the amount of the pay? A. That's right.

Q. Now, when did you say it was first reduced, when do you say was the first reduction which you say took

2462

S. M. 924

place in connection with—or the first restoration which you say took place in connection with signing the President's reemployment agreement? A. April 30, 1934.

Q. And at that time half of the original reduction was restored, you say? A. Approximately a half,  $8\frac{1}{3}$  percent.

Q. That would be  $4\frac{1}{6}$  percent restored at that time?

A. Compute it any way you wish, we won't argue about it.

2463

Q. And this meeting in July of 1936 related to the restoration of the remaining  $4\frac{1}{6}$ ? A. That's right.

Q. Was that restoration made at that time? A. As of August 16, 1936, yes.

Q. It was announced to you in July, 1936, you of the general councils? A. Yes.

Q. And in connection with either of these restorations, was the pay, or were the hours of the work week increased? A. No; they were not.

Q. Were these restorations of the pay, the rate of pay, without increase in hours, one of the things on which you and the other councils had been dealing with

2464

*Harold J. Straub (Recalled)—For N.L.R.B.—Cross*

and urging the management? A. I can only speak for the council of the Bronx Gas & Electric Company.

S. M. 925

Q. And certainly as to that company it was? A. Absolutely.

Q. And you felt that your council and the other councils, or at least your council had accomplished something in helping to bring that about? A. No.

2465

Q. You didn't feel that way? A. We didn't kid ourselves about that. We knew we could have been asking for it for two years and if the management had not felt like giving it to us, we wouldn't get it.

Q. Then just whom did you kid about it? A. Nobody. We were honest with your employees.

Q. And you never made any statements, any representations that this was something you had been urging and you were glad it was brought about? A. I personally did not, but there were other members of the general council besides myself.

Q. I see. A. I can't say what they might have said.

2466

Q. I will ask if this letter was written and signed by you?

(Letter handed to the witness.)

A. Oh, yes, very definitely, yes.

Q. May I have it? A. I have not finished with it yet.

S. M. 926

Q. What was its date? A. July 15, 1936.

Q. That was right, perhaps the day of, or a few days after the meeting of the general— A. I think it was the day after—general council—

Q. —general council with the management? A. That's right.

*Harold J. Straub (Recalled)—For N.L.R.B.—Cross*

2467

Q. Regarding the restoration? A. That's right.

Q. Of the balance of the pay? A. Yes, sir.

Judge Ransom: I offer it in evidence.

Mr. Moscovitz: No objection.

(Document referred to received in evidence marked respondent's exhibit No. 9 for identification, Witness Straub.)

Trial Examiner Gates: We will adjourn now.

(Thereupon at 4:10 P. M., adjournment was taken until 10:00 P. M., June 17th, 1937.)

2468

ADJOURNMENT.

2469

2470 S. M. 927

**Minutes of Hearing, Held June 17, 1937**

**BEFORE THE  
NATIONAL LABOR RELATIONS BOARD  
SECOND REGION**

**IN THE MATTER  
of**

2471

**CONSOLIDATED EDISON COMPANY OF NEW  
YORK, INC., and its affiliated companies,  
BROOKLYN EDISON COMPANY, INC.,  
NEW YORK & QUEENS ELECTRIC LIGHT  
& POWER COMPANY,  
WESTCHESTER LIGHTING COMPANY,  
THE YONKERS ELECTRIC LIGHT AND  
POWER COMPANY,  
NEW YORK STRAM CORPORATION,  
CONSOLIDATED TELEGRAPH & ELEC-  
TRICAL SUBWAY COMPANY,**

*Respondents,***and**

2472

**UNITED ELECTRICAL AND RADIO WORKERS  
OF AMERICA, Affiliated with the COMMIT-  
TEE FOR INDUSTRIAL ORGANIZATION.**

**Case No.  
II-C 224**

14 Vesey Street,  
New York, N. Y.,  
June 17, 1937.

The above-entitled matter came on for hearing pur-  
suant to adjournment taken June 16, 1937, at 10 o'clock  
A. M.

Before:

ROBERT M. GATES, Trial Examiner.

*Harold J. Straub (Recalled)—For N.L.R.B.—Cross*

2473

**Appearances:**

DAVID A. MOSCOVITZ, Esq., Attorney for the National

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Labor Relations Board.

WILL MASLOW, Esq., Attorney for the National Labor Relations Board.

LOUIS B. BOUDIN and SIDNEY ELLIOTT COHN, 8 West 40th Street, New York, N. Y., appearing for United Electrical and Radio Workers, Local 1212.

2474

MESSRS. WHITMAN, RANSOM, COULSON & GOETZ, 40 Wall Street, New York City, N. Y. (By William L. Ransom, Jacob H. Goetz and Pincus M. Berkson, of counsel), appearing specially for the respondent companies, reserving all objections to jurisdiction.

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**PROCEEDINGS**

Trial Examiner Gates: Are you ready, Mr. Moscovitz?

Mr. Moscovitz: Yes, sir.

2475

HAROLD J. STRAUB, recalled, and testified further as follows:

*Cross-Examination:*

Q. (By Mr. Ransom) Mr. Straub, you testified on direct examination concerning a mimeographed circular of which you were given copies at the office of Mr. Rosenquest, with respect to a request for a vote on a plan of electing representatives for collective bargain-



2476

*Harold J. Straub (Recalled)—For N.L.R.B.—Cross*

ing. I show you this document and ask you if that is a copy of the mimeographed document to which you referred. (Handing paper witness.) A. I believe it is, yes. Yes, that's it.

Judge Ransom: May it be identified, please?

(Document referred to was marked Respondents' Exhibit 9 for identification, Witness Straub.)

2477

Q. (By Judge Ransom): Respondents' Exhibit No. 9 for identification is a communication to the employees of the Bronx Gas & Electric Company from E. H. Rosenquest, president, and to that is amended a form of request for vote which is followed by blank spaces for signature. A. Yes.

Judge Ransom: I offer it in evidence.

Mr. Moscovitz: No objection.

S. M. 930

(Document previously marked Respondents' Exhibit No. 9 received in evidence as Respondents' Exhibit 9, Witness Straub.)

2478

Q. (By Judge Ransom) Mr. Straub, you identified yesterday Respondents' Exhibit 8 for identification, as a copy of the employees representation plan of the Bronx Gas & Electric Company in pamphlet form which bore the date April 11, 1934. A. Yes.

Q. I show you a printed communication to the employees of the Bronx Gas & Electric Company, dated April 11, 1934, and ask you whether you recognize that as the letter with which the plan printed as of the same date and marked as Exhibit No. 8 for identification was transmitted to the employees of the company? A. Would you mind putting that question again?

*Harold J. Straub (Recalled)—For N.L.R.B.—Cross*

Q. I say, is that a copy of the letter with which the plan was submitted to the employees of the company?

⊖ A. I don't recall whether this letter accompanied the copy of the plan to the employees or not; but I do recall having read this letter.

Q. You recognize this as a letter which was received by you for the employees of the Bronx Gas & Electric Company? A. That's right.

Judge Ransom: I offer it in evidence.

Mr. Moscovitz: No objection.

Trial Examiner Gates: It is admitted.

2480

S. M. 931

(Document referred to received in evidence as Respondents' Exhibit 10, Witness Straub.)

Judge Ransom: Now, I offer in evidence Respondents' Exhibit 8 for identification, which is the plan which went with the letter in the form in which it was submitted to the company as shown in the text of it, submitted to the employees as shown in the text of the letter.

Mr. Moscovitz: No objection.

Trial Examiner Gates: It may be admitted.

2481

(Document previously marked Respondents' Exhibit 8 for identification now received in evidence, Witness Straub.)

Q. (By Mr. Ransom) I show you a copy of a printed letter on the letterhead of Bronx Gas & Electric Company, dated April 11, 1934, and ask you whether you recognize that as a communication which you saw at the time.

(Document passed to the witness.)

2482

*Harold J. Straub (Recalled)—For N.L.R.B.—Cross*

A. I never saw that letter.

Judge Ransom: I ask to have it marked for identification.

(Document referred to marked Respondents' Exhibit 11 for identification, Witness Straub.)

2483

Q. (By Mr. Ransom) You said yesterday, as you recalled it, the employees first elected by the ballot tellers to conduct this election of April 17, 1934; do you recognize that as a copy of the form of ballot which was used by the employees in electing the tellers to conduct

S. M. 932

the vote of April 17, 1934?

(Document was passed to the witness.)

A. Yes, I believe that's a copy of the ballot.

Judge Ransom: I offer it in evidence.

Mr. Moscovitz: No objection.

(Document referred to received in evidence and marked Respondents' Exhibit 12, Witness Straub.)

2484

Q. (By Mr. Ransom) You said that at the voting on April 17, 1934, the employees of the company voted upon two questions or propositions; may I ask you if you recognize that as a copy of the form of ballot which was used by the employees in that election?

(Document passed to the witness.)

A. I believe it is.

Judge Ransom: I offer it in evidence.

Mr. Moscovitz: No objection.

Trial Examiner Gates: Admitted.

*Harold J. Straub (Recalled)—For N.L.R.B.—Cross*

2485

(Document referred to received in evidence and marked Respondents' Exhibit 13, Witness Straub.)

Q. (By Mr. Ransom) Referring to the ballot used on April 17, 1934, for the vote of the employees on the two submitted propositions; do you recall whether the vote on the first proposition of the employees was 310 for and 3 against? A. I can't recall exactly, I know it was an overwhelming majority, but I do not recall.

S. M. 933

2486

Q. Do you recall if the vote on proposition 2 was 299 for and 12 against? A. I don't recall the exact number.

Q. Well, do you recall—are they your recollection of the approximate figures? A. Yes, the approximate figures, approximately.

Q. And you spoke about the form of enrollment of employees to vote and take part in the nomination or election of the representatives; I ask you if you recognize that as a form which was used by the employees under the representation plan in the enrollment of those who were entitled to vote in subsequent elections after the adoption of the plan?

2487

(Document was passed to the witness.)

A. Will you repeat that?

Q. I say, do you recognize that as the form which was used by the employees in their enrollment as persons entitled to vote in subsequent elections under the plan? A. As I recall it, this was a form that was submitted to the employees in the various departments after the first election or, rather, the balloting on the approval of the plan. I distinctly recall employees' job

2488

*Harold J. Straub (Recalled)—For N.L.R.B.—Cross*

specifications, or, rather, their payroll specifications, being on the form. I am sure this is it, or none, and the people in the various departments objected to sending it back without signing it due to the fact that they

S. M. 934

weren't asked about it—

Judge Ransom: Well, I ask that that be marked for identification.

2489

(Document referred to marked Respondents' Exhibit 14 for identification, Witness Straub.)

Q. (By Mr. Ransom) You spoke on direct examination again yesterday about the merger of the Bronx Gas & Electric Company into the Consolidated Edison Company by reason of which you ceased to deal with the management committee or the secretary with whom you had formerly dealt as chairman of the general council of the Bronx Gas & Electric Company; did you, thereafter, send this letter to Mr. Prezzano, who is president of the Westchester Lighting Company and also the Bronx Gas & Electric Company?

2490

(Document passed to the witness.)

A. Yes, yes, I believe I did, yes, I sent that.

Q. In any event, that's your signature? A. That's right.

Q. And the statements there are true? A. That's right.

Q. And was that sent about or shortly after the first of January, 1937? A. I can't recall the exact date it was sent, I do know it was sent.

*Harold J. Straub (Recalled)—For N.L.R.B.—Redirect*

2491

S. M. 935

Q. Was it after? A. I received a reply to it.

Q. It was after you were informed of the merger and after the merger had begun to go into effect? A. That's right.

Q. After you had ceased to deal with the secretary of the management committee at Mt. Vernon? A. We had not entirely ceased to deal with him, no, it was new members that we picked up later through him.

Q. You were still clearing up the matters that were still pending with that management committee? A. Yes.

2492

Judge Ransom: I offer the letter in evidence.

Mr. Moscovitz: No objection.

Trial Examiner Gates: Admitted.

(Document referred to received in evidence and marked Respondents' Exhibit 15, Witness Straub.)

Judge Ransom: That is all.

Mr. Moscovitz: Have you finished with Mr. Straub?

Judge Ransom: Yes.

2493

### REDIRECT EXAMINATION:

Q. (By Mr. Moscovitz) Mr. Straub, Respondents' Exhibit 8; which is the employees representation plan, is a plan which was submitted to the employees by the company. Is that right? A. That is correct.

S. M. 936

Q. And which the employees had no voice in drafting. Is that right?



2494

*Harold J. Straub (Recalled) — For N.L.R.B. — Redirect*

Judge Ransom: Objected to as contrary to any fact. The witness does not know.

Trial Examiner Gates: He may answer.

Judge Ransom: The letter of transmittal states the circumstances under which it was prepared.

Trial Examiner Gates: He may answer it.

Judge Ransom: Exception.

2495

A. The employees had no voice in drafting that. That was written entirely by the management of the company and presented to their employees.

Q. (By Mr. Moscovitz) And is Respondents' Exhibit 10 the notice or letter which accompanied Respondents' Exhibit No. 8? A. I think I said before that I don't recall this letter accompanying that. I do recall having read the letter, however.

2496

Q. In the letter, in the first paragraph, there is a statement that a majority of the employees of this company had indicated a desire to initiate a plan of organization within this company for employee representation for collective bargaining. Reference to the employees of this company is the company by which you were employed. Is that right? A. Bronx Gas & Electric Com-

S. M. 937

pany, yes.

Q. And were you part of any group, if you know, of employees of the company, who indicated to the management in any way a desire to be organized for collective bargaining under a plan? A. I was a member of a group, I was one of a group, but certainly we did not represent a majority of the employees. At the time we contacted the management, we were sent up there by our department supervisors.

*Harold J. Straub (Recalled)—For N.L.R.B.—Redirect*

2497

Q. And was that at a time prior to April 11, 1934?  
A. I believe it was, yes.

Q. And was it your idea as a member of the contact group to see the company regarding the plan; or were you simply instructed by some one to go see the company regarding the plan? A. I was simply instructed to go see some one, but not regarding the plan. We had no idea what it was all about.

Q. Who instructed you to go? A. The general foreman in our department; the general superintendent of our department, at that time, a Mr. Fitzsimmons. Incidentally, he is now dead.

2498

Q. Did you learn after you went, at that time, that it was for the purpose of doing something about a plan? A. Well, from what Mr. Rosenquest told us, we learned that.

Q. You saw him? A. We spoke to a Mr. Wilder,

S. M. 938

an executive vice-president of the Westchester Lighting Company and the Bronx Gas, and so forth.

Q. And what did you learn when you saw them? A. After speaking to Mr. Wilder for a few minutes, he brought us in to Mr. Rosenquest's office, and he introduced each one of us to Mr. Rosenquest. Mr. Rosenquest said a few words of more or less greeting, and then he said, "I understand you people have been sent up here by the employees to set up a means of collective bargaining."

2499

We knew nothing about that. That was the first we heard of it.

Q. Did he have a tentative plan at that time? A. At that time we saw no copy of the plan. We did, however, see some letter, some correspondence he had there. I couldn't recall exactly what it was.

2500 *Harold J. Straub (Recalled)—For N.L.R.B.—Redirect*

Q. Was it Respondents' Exhibit No. 9, which you saw at that time? A. I couldn't accurately say. However, I believe it was.

Q. Now, in Respondents' Exhibit 9, third paragraph, there is a statement as follows:- "If a majority of the employees in this company indicate a desire for such organization in this company by signing the request below, a special election will be held in the near future, at which such a plan will be submitted, opportunity given for the submission of other plans," and so forth.

2501

S. M. 939

Now, was there any discussion with Mr. Rosenquest regarding the manner in which the request for a vote which appears on the bottom of Respondents' Exhibit 9 was to be brought to the attention of the employees? A. As far as I can recall, the discussion was that each of the three men present was decided upon right there, as to what parts of the Bronx Gas & Electric Company each man would cover in attempting to get the employees to sign this petition or request.

2502

Q. And who decided which parts of the company the three men would cover? A. It was decided by mutual consent between the management and ourselves. Inasmuch as I represented no one at that time, I was a line-man, and therefore familiar and known to the people of the line department, it was decided I should go around and contact all the linemen, helpers and chauffeurs, and get them to sign the petition.

Q. Yes. A. A Mr. Dunkel, I believe, in the test department at that time, was supposed to circulate the petition among the employees at 1555 Purdy Street, and Mr. Newport, from 43 Westchester Square, was to circulate the same type of petition among the employees at that location, 43 Westchester Square.

*Harold J. Straub (Recalled)—For N.L.R.B.—Redirect* 2503

Q. Were they the two men who were with you at that time? A. Yes.

S. M. 940

Q. Who prepared the request for vote which was to be submitted to the employees? A. The management gave this request to us.

Q. Did you have anything to do in the drafting of it? A. No, sir, absolutely not.

Q. Or in suggestions which were incorporated in it? A. Absolutely not. 2504

Q. Did you then simply take it and distribute it in accordance with instructions given to you by the management? A. We did not distribute it. We simply retained it ourselves and got each employee to sign it.

Q. Was that in accordance with instructions by the management? A. It was.

Q. And was that done during your regular working hours? A. It was.

Q. While the other men also were at work? A. That's right.

Q. For which you were paid? A. That's right.

Q. Was that the start of your opportunity to be employed by the company without working on a line? A. I don't quite get the question. 2505

Q. Well, did that start, then, your employment activity which permitted you from that time on to work for the company but not in your regular job as a line-

S. M. 941

man? A. Yes, that was the beginning.

Q. Respondents' Exhibit 11, which has been marked for identification, Mr. Straub, as I recall, you have no recollection of that?

2506 *Harold J. Straub (Recalled)—For N.L.R.B.—Redirect*

(Respondents' Exhibit 11 passed to the witness.)

A. That's right, I never saw this before.

Judge Ransom: You are referring now to the memorandum for supervisory employees?

Mr. Moscovitz: Yes.

Judge Ransom: I take it this witness probably did not get one.

2507 Q. (By Mr. Moscovitz) Respondents' Exhibit 12, Mr. Straub, which is a ballot for tellers to act in the election to be held April 17, 1934, specifying certain departments involved with instructions for the casting of the ballots, you testified that you had seen such a ballot, is that right? A. Yes, I have.

Q. Was that ballot the one which was presented to the employees after the petitions were signed so that they might indicate your choice? A. Yes, I believe it was, there is some confusion in my mind, there were several elections, several methods of balloting at that time.

2508 Q. Well, now, what method of balloting was that, is it any different than you might consider Respondents'

S. M. 942.

Exhibit 12 and Respondents' Exhibit 13 at the same time, Respondents' Exhibit 15, rather, being a ballot and will you consider those and explain each one in the light of the other, if you can?

Judge Ransom: The witness testified yesterday that the tellers were chosen by the employees first.

The Witness: I don't believe Mr. Ransom's statement is correct.



*Harold J. Straub (Recalled)—For N.L.R.B.—Redirect*

2509

Judge Ransom: The record speaks for itself.

The Witness: I stated yesterday the original board of tellers were selected by the board of supervisors of the various departments and that those elections, conducted by those tellers, then the board of tellers was chosen to conduct this election. These were both submitted at the same time.

Q. (By Mr. Moscovitz) By whom? A. By the management of the company, incidentally, the board of tellers supervising this election was chosen by certain department heads, not selected by employees.

2510

Judge Ransom: You are referring now to the election of tellers?

The Witness: I am referring to the election of tellers and voting on this proposition, they were both held at the same time.

S. M. 943

Q. (By Mr. Moscovitz) And in either case did the employees or you three designated representatives have any voice in the drafting of these ballots? A. Absolutely not.

2511

Q. And they, too, were given to you by management for submission to the employees? A. They were given to the board of tellers that had been set up in each department to conduct that election, set up by the management.

Q. Yes, were you a member of any of the boards? A. I was later elected a member of the board of tellers on that ballot.

Q. Yes, I see. A. But I was not—

Q. Go ahead. A. But that board of tellers was elected and acted only as a temporary board of tellers.



2512

*Harold J. Straub (Recalled)—For N.L.R.B.—Redirect*

Q. Respondents' Exhibit 14 for identification, you are not clear in your own mind as to all of the pages in that exhibit? A. I don't ever recall having seen any one of the particular departments in which I was working have anything like this sent.

Q. You have no recollection? A. No, sir, there was a list sent similar to this, as I explained, there was some controversy about it, but I am sure this

S. M. 944

2513

did not accompany it.

Judge Ransom: What you refer to is a copy of the plan annexed to the list, is that right?

The Witness: That's right.

Q. (By Mr. Moscovitz) Now, these exhibits which you have been looking at, including Respondents' Exhibit 8, which is the plan, are they, so far as you recall, the complete list of papers brought to your attention during the period of time that the plan was being considered and voted upon? A. As far as I recall, yes.

2514

Q. And it was all preliminary to the actual voting upon the plan by the employees? A. They voted on accepting of the plan in this, that is included in that, in those papers.

Q. That's included in the whole group? A. That's right.

Q. Was there any instance during that period of time where you or the other two men had any opportunity to voice any suggestion for consideration in this plan? A. No, absolutely not.

Q. So that it is, so far as you know, a plan which was drafted considered and suggested by management, after which it was turned over to you and the other employees, is that right? A. That's right.

*Harold J. Straub (Recalled)—For N.L.R.B.—Redirect*

2515

S. M. 945

Q. Respondents' Exhibit 15, Mr. Straub, is the letter signed by you and sent to Mr. Prezzano, the president of the Westchester Lighting Company, as I recall your testimony, some time in January, 1936, is that correct?

A. That's correct.

Q. Or 1937? A. I believe 1937.

Q. All right. Do you recall whether or not you received a reply? A. I did.

Q. Is this the reply?

2516

(Document passed to the witness.)

A. Yes, that's correct, this is the reply to that letter.

Mr. Moscovitz: I offer that.

Judge Ransom: No objection.

Trial Examiner Gates: Admitted.

(Document referred to received in evidence and marked Board's Exhibit 12, Witness Straub.)

Q. (By Mr. Moscovitz) It appears from these letters; Respondents' Exhibit 15 and Board Exhibit 12, that there was good feeling between yourself and management, is that right? A. It certainly was.

2517

Q. Which still exists, is that right? A. I hope so.

S. M. 946

although I doubt it.

Q. In your reference in Respondents' Exhibit 15 to Mr. Wilder, that is the gentleman about whom you have already testified? A. Stewart Wilder, vice-president of Westchester Lighting Company.

Judge Ransom: And of the Bronx Company?

The Witness: Oh, yes.

Q. (By Mr. Moscovitz) In your reference to asso-

2518

*Harold J. Straub (Recalled).—For N.L.R.B.—Redirect*

ciation with Mr. Carrol in Respondents' Exhibit 15, who is he? A. Secretary of the management committee of the Bronx Gas & Electric Company.

Q. And are both those gentlemen, or are both these gents, gentlemen with whom you had worked during the period of time that you were active in your plan activity? A. I wouldn't say we had worked with them. We had contacted them on various occasions, certainly never worked with them. I mean, they were not fellow employees. We didn't work side by side.

2519

Q. Was this letter addressed to Mr. Prezzano, Respondents' Exhibit 15, sent in your individual capacity, or at the request of the employees in your department? A. The employees had nothing whatever to do with it. It was a personal letter, written by myself, entirely on my own free will. The employees or no one had anything to do with it other than myself.

S. M. 947

2520

Q. What was the reason for the sending of it at that time? A. I really meant it. Our relations had been very cordial. Mr. Carrol had been at every time a gentlemen. Any time I had occasion to talk to him, he was a gentleman, and I admired and respected the president, the vice-president and the secretary of the Bronx Gas & Electric Company, and I felt no hesitancy in stating as much.

Q. Are they still employed in this company? A. The Westchester Lighting Company, I believe.

Q. Yes. A. Yes, they are. The Bronx Gas & Electric Company is no longer in existence.

Q. But they still are with the Westchester Lighting Company? A. They always were.

Q. They still are? A. Yes.

Q. Yesterday there was introduced, as I recall, a letter to Mr. Prezzano dated July 15, 1936, signed by

*Harold J. Straub (Recalled)—For N.L.R.B.—Recross* } 2521

yourself as chairman of the third general council, in which you thanked him and extended your appreciation as well to Mr. Wilder for his efforts in securing full restoration of the reduction in pay which resulted in a partial reduction in working hours, which became effective on May 1, 1933, and which was to be restored August 16, 1936. Do you recall that? A. I do.

S. M. 948

Q. Was that letter sent in your individual capacity, or at the request of the employees whom you represented? A. At the request of the members of the general council. 2522

Q. Yes. And can you tell us whether there is any other reason which does not appear on the face of the letter which prompted the sending of that letter? A. Why, I believe it goes back to what I said. I realized that we had nothing to do, as well as every other member in the council realized, we could have attempted to get that restoration for 50 years, we had nothing to do in order to get it, no way of getting it. We had no organization behind us. It was a magnanimous gesture on the part of the management and we realized that. We had nothing to do with it. We realized that Mr. Wilder and Mr. Prezzano must have been instrumental in our behalf with the board of directors of the Consolidated Edison Company in having it restored to us, and we thanked them in accordance with those ideas. 2523

Mr. Moscovitz: That's all.

#### RECROSS EXAMINATION:

Q. (By Judge Ransom) You had requested them to do what they could to bring about the restoration? A. What is that?

2524

*Harold J. Straub (Recalled)—For N.L.R.B.—Recross*

Q. Your council had asked them to do what they could to bring about the restoration? A. As well as

S. M. 949

I believe every other council that had been in existence prior to that.

Q. Did you sign Respondents' Exhibit No. 9? A. I believe I did.

2525

Q. And you, with the two other men whom you mentioned, obtained signatures to it? A. Not to the one that I signed.

Q. Well, the same form? A. I believe they signed it. I assume as much. I don't know.

Q. They obtained signatures? A. That's right.

Q. Do you know how many signed in the whole company among the entire body of employees? A. I know only how many signed for myself.

Q. Well, how many signed for you? A. All that I contacted, everybody I had seen. I don't know who signed for the others.

2526

Q. Do you know whether any others than the two men whom you have mentioned and yourself circulated this request for vote? A. I don't know of any others, no.

Q. You don't know, then, whether they did or did not? A. I imagine that they did not.

Q. But that is a pure supposition on your part? A. That's right.

S. M. 950

Q. That's all.

*Examination by Trial Examiner Gates:*

Q. (By the Trial Examiner) Had the plan been submitted to the employees before they voted on it, the



*Harold J. Straub (Recalled)—For N.L.R.B.—Recross*

2527

first balloting? A. I cannot recall ever having seen a copy of the plan before it was voted upon.

Judge Ransom: You mean before it was sent out to be voted upon?

The Witness: I don't get that.

Judge Ransom: Before it was sent out to be voted upon?

The Witness: The ballot was submitted to us to vote as to whether or not we wanted a definite plan.

2528

Judge Ransom: You say the first time you ever saw it was the day of the voting?

The Witness: I don't recall even having seen it then.

Q. (By the Trial Examiner) Can you state when the balloting was with reference to whether it preceded or followed either one or both of these letters, Respondent's Exhibit 9 and Respondent's Exhibit 10? A. The balloting took place, I believe, after both of these letters.

Q. You had not seen the plan at all? A. I don't recall having seen it, not until after the balloting.

2529

Q. Mr. Carlisle's precise words to the meeting on

S. M. 951

April 20th announcing recognition of the I.B.E.W. can you recall that? A. What did you say, sir?

Q. Can you recall Mr. Carlisle's precise words to the meeting on April 20th, announcing recognition of the I.B.E.W.? A. I believe I can.

Q. What were they? A. Mr. Carlisle opened the meeting of this group by stating, telling the employees of the surprise that the electric industry had received



2530

*Harold J. Straub (Recalled)—For N.L.R.B.—Recross*

as well as all other industry, in the Wagner Act being upheld.

Q. Just as to recognition. A. He said that, "I have received a letter from a Mr. Dan Tracy, international president of the International Brotherhood of Electrical Workers, asking me to recognize that organization as the bargaining body for the employees of the Consolidated Edison Company, and I intend to answer that letter and grant that recognition."

2531

Mr. Moscovitz: You have fixed that date, haven't you?

The Witness: Tuesday, April 20, 1937.

Q. (By Trial Examiner Gates) In your direct testimony, you stated that somebody offered you an office in local B-829. You did not state who. Can you at this time state who made such an offer to you? A. Yes, Patrick McGrath, the present business manager of local B-829, offered me the position as chairman of

S. M. 952

2532

the executive board of B-829, if I would go along with him in his attempts to become business manager of Local B-829.

S. M. 953

Q. That is the only individual? A. That is all. I was nominated by all of these charter members present at that meeting as a member of the executive board and I declined that nomination.

Q. I think you may have fixed it later in your testimony, but I am not sure; in any event, I would like to have you state the date, the date that you first met with Tracy, Mr. Dan Tracy, president of the International Brotherhood. A. Friday, April 23rd, 1937.

*Arthur Currie Joy—For N.L.R.B.—Direct*

2533

Q. Is that the only meeting you had with him? A. That's the only one I had, yes.

Trial Examiner Gates: That is all.

(Witness excused.)

Mr. Moscovitz: I will call Mr. Joy.

ARTHUR CURRIE JOY, called as a witness for the National Labor Relations Board, being first duly sworn, testified as follows: 2534

*Direct Examination:*

Q. (By Mr. Moscovitz) What is your name? A. Arthur Currie Joy.

Q. Where do you live? A. 137-61 Holly Avenue, Flushing, New York.

Q. By whom are you employed at the present time? A. Consolidated Edison Company of New York.

Q. At what address? A. 4 Irving Place.

S. M. 954

2535

Q. In what capacity? A. Engineer in the electrical engineering department.

Q. What did you say you were? A. Junior engineer in the electrical engineering department.

Q. What are your duties as junior engineer? A. Preparation of specifications, general studies pertaining to cables, high voltage, low voltage cables and related equipment and accessories.

Q. How long have you been so employed? A. I have been in the company since July 1st, 1928, the first nine months in which I was with the test bureau, in general.

2536

*Arthur Currie Joy—For N.L.R.B.—Direct*

testing, and after that I have been in the engineering department in this type or similar work.

Q. And was the particular group with whom you worked known as, in so far as division or department classification is concerned, it was known as what? A. The cable division, outside plant bureau, electrical engineering department.

Q. I see. And how many men are in your division? A. I think there are 18 but I am not sure of that, it is around 19, or 20 or 21, something of that nature.

2537

Q. Are you a member at the present time of any labor organization? A. I am a member of the Independent Gas and Electric Union.

S. M. 955

Q. How long have you been a member of that union? A. I don't recall the exact date of the application of membership, the union was formed approximately April 29th, I believe; it was the beginning of its formation, I have been associated with it since its inception.

Q. That is April 29, 1937? A. 1937.

Q. 1937? A. Yes.

2538

Q. Have you been associated with it in an official capacity or simply as a member? A. I am a member of the temporary executive board.

Q. And does it have—who are the officers of the organization? A. The officers at present are Mr. John Schock, temporary chairman, Mr. Harry Crowell, temporary vice chairman, and Mr. Edward Gideon, financial secretary, temporary financial secretary.

Q. Yes, and the officers are all employees of the company? A. They are.

Q. Of the Consolidated Edison Company? A. Yes.

Q. And do you at the present time operate as an independent labor organization? A. Absolutely.

*Arthur Currie Joy—For N.L.R.B.—Direct*

2539

Q. You have no national affiliation at this point, do you? A. No.

S. M. 956

Q. Is your organization one which, so far, is limited to the operations of the Consolidated Edison System?

A. Yes.

Q. And when I say "system", I mean not alone the Consolidated Edison Company but its affiliates and divisions and subsidiaries? A. The Consolidated Edison Company of Brooklyn, Edison Company of New York and Queens Electric Light and Power Company, Westchester Lighting, et cetera.

2540

Q. Yes, but you did not at this time have membership elsewhere? A. No.

Q. Now, before the starting of this organization in April, 1937, were you a member of any other labor organization? A. I was a member of the employees representative association of the New York Edison Company.

Q. Yes, and how long were you a member of that Association? A. I was a member since its inception which I believe was 1932, I don't recall the date.

2541

Q. 1932 or '33, around that sometime, is that right?

Judge Ransom: You mean 1933?

Mr. Moscovitz: Yes, 1932.

Judge Ransom: The end of 1933?

The Witness: Yes.

Q. (By Mr. Moscovitz) And while you were a member of the plan were you a member of any other labor

S. M. 957

organization? A. No.

2542

*Arthur Currie Joy—For N.L.R.B.—Direct*

Q. All right, and at the present time you are a member of no labor organization outside of the Independent Union? A. That's right.

Q. Does your independent Union have a local or is it simply known by the name which you have already given? A. It is known by the name which I have stated, that it is one organization for the whole system.

2543

Q. And is the purpose of your organization to consider questions pertaining to employees for negotiation with management and also to take steps to improve working conditions of employees? A. Certainly, the purposes are the same as any other labor organizations, we merely feel that national affiliation is not desirable.

Q. Can you tell me how soon after the employee representation plan was disbanded your organization came into existence? A. That's a hard question to answer because the employees representative association has never officially disbanded, so far as I know, it just died, so there was no definite time.

Q. Was it dying in about the time your organization came into existence? A. It began as dying very rapidly on April 20th, 1937.

2544

Q. Now, do you have—withdraw that. Now, do I understand your testimony to be that you had membership in the companies which you have already listed?

S. M. 958

A. That is correct.

Q. Now, what are your duties as an officer of this organization? A. I am not an officer, except as a member of the executive, temporary executive board.

Q. I mean as a member of the board? A. The duties of that board are the duties of any corresponding organization, to decide upon the policies and to see that they are carried out.

*Arthur Currie Joy—For N.L.R.B.—Direct*

2545

Q. Now, after you became a member of the organization, were you requested to become a member of any other organization? A. I can't say that any such request was made after I was a member of the independent organization, such requests as were made, I don't recall the exact—I don't recall just exactly how, well, it was between the two dates, but I don't know the dates on which the requests were made.

Q. Before you became a member of the independent union and during the period of time that the Employee Representation Plan was dying, do you recall whether or not any steps were taken by supervisory employees within your company to secure membership for the I.B.E.W.? 2546

Judge Ransom: Objected to as altogether vague. Proof of that sort must necessarily relate to definite persons and definite time.

Trial Examiner Gates: He may answer it.

S. M. 959

A. Would you repeat the question again please?

Q. (By Mr. Moscovitz) Immediately before you became a member of the independent union, do you recall whether or not any supervisory employee within your company attempted to secure membership for the I.B.E.W.? A. Yes, very definitely so. Is it permissible to refer to notes? 2547

Q. Yes, please do. A. On Friday, April 23rd.

Q. Is that 1937? A. 1937, division engineers in the outside plant bureau distributed membership cards for the I.B.E.W.

Q. Do you know who they were? A. I can name them definitely.

Q. Will you do so? A. W. F. Butcher, division en-



2548

*Arthur Currie Joy—For N.L.R.B.—Direct*

gineer of the distribution planning division; Mr. T. D. Reimers, division engineer of the distribution apparatus division.

Q. Yes. A. Mr. H. C. Kotchendorfer, I believe the initials are correct, division engineer of the subway design division, and in my own division two group leaders did it.

Q. Who were they? A. Mr. C. T. Hatcher and Mr. J. M. Comley.

2549

Judge Ransom: What is the last name?

S. M. 960

The Witness: Comley, C-o-m-l-y.

Q. (By Mr. Moscovitz) Mr. Butcher, Mr. Reimers and Mr. Kotchendorfer hold the same grade jobs, don't they? A. That is correct.

Q. And what kind of work do they do? A. Mr. Butcher has the responsibility for the general planning of the distribution system.

Q. What is Mr. Reimers job? A. Mr. Reimers has the responsibility for the development and operation, maintenance of the distribution apparatus on the electric system.

2550

Q. And Mr. Kotchendorfer? A. Mr. Kotchendorfer has the responsibility for the design of the underground conduit system, the manholes, vaults, and so forth.

Q. Do they all have employees who work for them? A. Yes, sir.

Q. Do you know in what number? A. Mr. Butcher, I believe, has approximately 12.

Q. Yes. A. Mr. Reimers has possibly 15 to 18.

Q. Yes. A. Mr. Kotchendorfer has approximately, 22, I believe. I am not positive of those figures.

Q. And are there any bosses in between Mr. Butcher and the 12 men? A. No.

S. M. 961

Q. Or foremen? A. No.

Q. Assistants? A. No.

Q. Or between the 15 or 18 men and Mr. Reimers?

A. Only possibly unofficially, I mean some men act unofficially as group heads, but I am not positive that they do in that particular division.

Q. I see, between the 22 men and Mr. Kotchendorfer?

A. Yes, a certain group of men report indirectly through one of his assistant engineers who, in turn, report to him. They are the draftsmen that report to him.

2552

Q. Does Mr. Kotchendorfer have assistant engineers working under him? A. Yes.

Q. Are they over the 22 men? A. As I say, one of them acts as the head of the 12 or 13 draftsmen in the group.

Q. And does Mr. Butcher have an assistant engineer?

A. There are a number of assistant engineers. The title, assistant engineer, is one that is set up according to the pay scale. There are a number of them in all three divisions. Are these three men who work on monthly or weekly payroll? A. Monthly.

2553

S. M. 962

Q. And what do the regular employees work on, monthly or weekly? A. Most of them weekly.

Q. Is there a distinction between, to your knowledge, men who work on weekly and monthly payroll? A. A distinction in what way?

Q. In so far as their classification in operation? Are monthly workers considered as supervisory employees?

A. No, not necessarily.

Q. What are they considered as, if you know, or why is the distinction in the time within which they are paid?

2554

*Arthur Currie Joy—For N.L.R.B.—Direct*

A. As to why the distinction, I don't know. There are certain differences in their status in the company. The monthly employees receive no overtime, if they work overtime. They are paid so much for the month and they work whatever is required of them. They are also not eligible for certain of the benefits that are provided such as the sick benefit fund.

Q. Anything else? A. That is all I know of offhand.

Q. Are all supervisory employees on monthly payroll? A. In my own organization, yes.

2555

Q. And are all non-supervisory employees on weekly payroll? A. No.

Q. They are not? A. There are a number of monthly

S. M. 963

paid engineers in there who are not in a supervisory capacity at all.

Q. Do you classify Butcher, Reimers and Kotchen-dorfer among them? A. They are division heads. They are supervisory, of course.

Q. Who comes immediately above these three men in rank? A. The bureau head and the assistant bureau head.

2556

Q. Well, would the assistant bureau head be next and then the bureau head? A. Yes.

Q. Do these three men report to the same assistant bureau head and the same bureau head? A. Yes.

Q. Who is the assistant bureau head? A. Mr. J. A. Brooks.

Q. Who is the bureau head? A. Mr. Milney.

Q. Is there any one above the bureau head? A. Of course, the department head and the assistant department head are above the bureau heads.

Q. Who is the assistant department head? A. Mr. C. W. Franklyn.

*Arthur Currie Joy—For N.L.R.B.—Direct*

2557

Q. And the department head? A. Mr. J. F. Fairman.

Q. And when you get to the department head, you are at the top of the heap insofar as your department is concerned? A. Then you go to the vice-president.

S. M. 964

Q. And then the president of the company? A. Yes.

Q. Now, do you work for any one of the three men whom you have named? A. No, not one of the division engineers. In my own division, the cards were handed out by the sub-group heads that I named.

2558

Q. But do you work for either Mr. Butcher, Mr. Reimers or Mr. Kotchendorfer? A. No.

Q. Do you work for any group which reports to any of those three? A. No.

Q. What does Mr. Hatcher do? A. Mr. Hatcher is a leader of a group in the cable division which has general responsibilities that I outlined as among my own duties, the preparation of specifications and the responsibility for the proper operation of the cable system.

Q. Is he your leader? A. Yes.

Q. How many men does he have working under him?

A. Six I believe it is.

2559

Q. Six? A. Yes, sir.

S. M. 965

Q. Is he on a weekly or a monthly payroll? A. Monthly.

Q. And do you men report directly to him? A. Yes.

Q. And receive your instructions from him? A. Yes.

Q. And are you responsible directly to him? A. In general, yes.

Q. And do you have any other boss or person immediately above you, outside of Mr. Hatcher? A. Noth-

2560

*Arthur Currie Joy—For N.L.R.B.—Direct*

ing officially, of course, the men who are seniors in experience are usually consulted first.

Q. I see. And who is immediately above Mr. Hatcher?

A. Mr. E. R. Thomas.

Q. What is his job? A. Division engineer of the cable division.

Q. And who is above him? A. The bureau head and the assistant, Mr. Brooks and Mr. Comley.

Q. So there is one step between Mr. Hatcher and the assistant bureau head? A. Yes.

2561

Q. How many men does Mr. Comley have working with him? A. Approximately seven in the personnel.

Q. Is that the same kind of work that is done by Mr. Hatcher's group? A. Not exactly, he has the statistical

S. M. 966

group which keeps the statistical records of the cable system, and they also handle some for other organizations, and they also have what is known as the technical group which handles quite a lot of the mathematical portion of the cable studies.

2562

Q. And his group are responsible to him, is that right? A. Yes.

Q. He gives them instructions? A. That is correct.

Q. And plans out their work, is that correct? A. That's right.

Q. And do you then go from Mr. Comley to the assistant bureau head? A. No, the division engineer, Mr. Thomas.

Q. And then to the assistant bureau head? A. That's right.

Q. What date was it when you say these men were engaged in the distribution of I.B.E.W. cards? A. Friday, April 23rd.

Q. Do you know what time it was? A. No, I don't.

*Arthur Gurrie Joy—For N.L.R.B.—Direct*

2563

Q. All right, it was— A. It was in the afternoon, pardon me.

Q. Was it during working hours? A. Yes.

S. M. 967

Q. While they were—withdraw that please. Now, did you say that Mr. Hatcher was doing it within your group? A. Yes.

Q. Did you see him do it? A. Yes, I was at the table with him.

Q. Did you see what he did? A. Well, I didn't hear the entire discussion but the general idea was that the company had agreed to recognize the I.B.E.W. and apparently they wanted the employees to join it and here were the application cards and they wanted them back the following Monday.

2564

Q. Did he hand you one? A. No, he was short in quantity and I did not get mine.

Q. Did he hand as many as he had out to his men? A. Yes, sir.

Q. How many did he have, do you recall? A. Approximately five or six at that time, I don't recall exactly, incidentally I was mistaken a while ago as to the number he had, it was approximately eight or ten in his group instead of six.

2565

Q. All right. And did he speak frequently to you about it or to the groups? A. To the group.

Q. Do you recall whether or not any of the men signed? A. No one signed at that time.

S. M. 968

Q. Do you recall whether or not he made any other statement to the men at that time? A. He undoubtedly did, I don't recall the exact wording of any of them



2566

*Arthur Currie Joy—For N.L.R.B.—Direct*

but I entered into some discussion on the situation with him.

Q. And what was your discussion? A. My discussion was that the thing, the organization that they were trying to hand us was a dictatorial organization, that there was no reason whatsoever for any self-respecting employee to sign, and the general answer was, "Well, it is better than the C.I.O., isn't it?"

2567

And I told him to get copies of the constitution of the I.B.E.W. and look it over and see if it was not better than anything.

Q. Now, at that time were you a member of your independent union? A. No, it had not been officially formed at that time.

Q. And was that the first time that it was brought to your attention that persons were circulating I.B.E.W. cards in the plant? A. It was not the first time, it was brought to my attention, no, it was the first hand evidence that I had of it.

Q. When was the first time that it was brought to your attention? A. On April 21st, I believe.

2568

S. M. 969

Q. Of the same year? A. 1937, yes, at which time there was a rather large meeting in the auditorium of quite a number of members of various councils of the Employees Representative Association.

Word was received at that time that certain foremen were going around to their men in the field and saying the E.R.A. is dead, here is the thing to sign for now.

Q. When you say "Word was received—", do you mean it was so reported to the council? A. Yes.

Q. Were you there? A. I was there.

Q. What was the purpose of the meeting? A. The purpose of the meeting was generally to discuss the action taken by the company in recognizing the I.B.E.W. and to see what could be done about it.

Q. How many men attended that meeting? A. Oh, I don't know, the auditorium was pretty well filled, I don't know the capacity of it at all, I would say there was possibly a hundred people there.

Q. And was that during working hours? A. Yes, sir.

Q. Who made the arrangements for the meeting, do you know? A. I presume the chairman of the general council of the E.R.A. did, that is Mr. Ganley. 2570

S. M. 970

Q. That's the manner in which meetings had previously been held or called under the plan? A. Well, meetings had been scheduled of the general council once each week, each Tuesday, but this was the following day the announcement was made by Mr. Carlisle to the chairman of the various general councils. It was made on Tuesday during our meeting—

Q. Well, was there— A. —and the arrangements were made for this meeting in the auditorium the following day. 2571

Q. Yes. Were you at the meeting when Mr. Carlisle made his statement? A. No.

Q. You read about it in the press? A. I read in the press, I also received word verbally on it, I had to leave that afternoon to take my family home from the hospital and I got the word by telephone that—at about ten minutes to five.

Q. From whom? A. An alternate who was attending the general council meeting.

2572

*Arthur Currie Joy—For N.L.R.B.—Direct*

Q. Was attending the meeting with Mr. Carlisle?  
A. No, the general council meeting.

Q. And what word did he report to you? A. That the chairman and vice chairman of the general council had come back from the meeting with Mr. Carlisle and reported that Mr. Carlisle had stated that he was

S. M. 971

2573

recognized in the I.B.E.W. as the collective bargaining organization for the employees.

Q. When you refer to the chairman you mean Mr. Ganley? A. Mr. Ganley and the vice chairman, Mr. Maddie.

Q. Mr. Maddie? A. That's right.

Q. Was it the next day then that you had your meeting in the auditorium? A. That's correct.

Q. Was any representative of management at the meeting? A. No.

2574

Q. Did you take a vote at that meeting as to what you would do about the company's position regarding the I.B.E.W.? A. There was no vote taken, the consensus of opinion was overwhelmingly that the employees did not like the idea and that they wanted an independent organization. I have forgotten the exact circumstances under which the meeting recessed. A committee was appointed to contact the National Labor Board to find out if an independent organization was legal and inasmuch as there were claims made by some people that the law required affiliation with the national organization, that committee did not come down inasmuch as its chairman went off on another tangent, but several of them did contact by telephone and got the word that it was entirely legal, that meeting reconvened.

*Arthur Currie Joy—For N.L.R.B.—Direct*

2575

S. M. 972

the next morning.

Q. And it was the day after the auditorium meeting then that Mr. Hatcher had the card which would be April 23rd? A. That's right.

Q. All right, did you see Mr. Comley circulate cards? A. Yes.

Q. Did you see what he had to say about it? A. Very much the same thing, I also entered into a discussion with him and gave him the same story that he should find out what they were advocating before they advocated it.

2576

Q. What did he have to say? A. Well, if you will look in the organization you will see which organization is preferable.

Q. He said that? A. Words to that effect.

Q. Did he make any reference to the company in any respect outside of the reference to the newspaper? A. I don't recall.

Q. When was it that you spoke to Mr. Comly about when you saw him distributing these cards? A. That was the same day on April 23rd.

Q. The same time? A. About an hour and a half or an hour afterwards. 2577

Q. That was all during working hours? A. Yes.

S. M. 973

Q. Did you see the cards? A. Yes, sir.

Q. Were they the same as Board's exhibit # 6 which is on the table before you?

(Board's exhibit #6 passed to the witness.)

A. That's correct, it was a standard application form for the I.B.E.W. membership.

2578

*Arthur Currie Joy—For N.L.R.B.—Direct*

Q. Board exhibit #6 is an exact copy as far as you know? A. As far as I know, yes.

Q. Now, did you see Mr. Kotchendorfer distribute cards? A. I didn't see him distribute them but a number of men in the division told me that he did.

Q. Who were the men? A. I don't recall their names offhand except of one man.

Q. What's his name? A. Mr. LeRoy H. Nothdurft.

2579

Q. Did he report to the division—did he report on the distribution of cards by Mr. Kotchendorfer, did he report that it was taking place on April 23rd? A. Yes.

Judge Ransom: I object to that and move to strike out all the testimony relative to Mr. Kotchendorfer, it appears it is clearly hearsay and nothing else.

Trial Examiner Gates: It may stand.

Judge Ransom: Exception.

S. M. 974

2580

Q. (By Mr. Moscovitz) Mr. Reimers, when did he distribute cards? A. They were all distributed on the same day.

Q. Mr. Buchers, when did he, or did he? A. Yes.

Q. During working hours? A. Yes.

Q. You testified that Mr. Hatcher handed these cards out and that the men were to bring them back the following Monday? A. Yes.

Q. Do you know whether or not they did? A. The cards were collected throughout the whole bureau again on the following Monday.

Q. When you say they were collected throughout the whole bureau on the following Monday, can you tell me what you mean by that? A. Well, each man that gave out the cards gave them out with the word that

*Arthur Currie Joy—For N.L.R.B.—Direct*

2581

the cards were wanted back by Monday, I believe at ten o'clock, or twelve o'clock, something in that nature.

Q. That would be what date? A. Monday, April 26th.

Q. April 26th? A. Yes.

Q. All right, and then what happened on April 26th when the men came back? A. Most of the cards that

S. M. 975

were turned in were turned in blank, I went out to have a late lunch, a very late lunch, and when I came back the men in my division were just coming out from a meeting with Mr. Thomas or Mr. Comley, where they had been talked to again on the situation.

2582

Q. Who is Mr. Thomas? A. My division engineer.

Q. Yes, go ahead? A. And they were told at that time that this was merely a matter of preference between the American Federation of Labor and the C.I.O., that if you signed the card, it indicated that you preferred the American Federation of Labor and if you did not sign the card, it indicated a preference for the C.I.O.

2583

Q. Do you know whether or not the men in your group then signed the cards? A. I think no one actually signed the cards, they took a compromise course, scratched out the word "Application for Membership", the pledge on the back of the card, practically everything else on there and printed, instead of signing their names, figuring that if anybody wanted to take that as an indication of anything, they could do so.

Q. What did you do about it? A. I stated in the beginning that whatever the majority did I would do also.



2584

*Arthur Currie Joy—For N.L.R.B.—Direct*

S. M. 976

Q. Who did you state that to? A. To the group, and so when the majority took that action, I did also.

Q. Yes, and when did you get your card? A. I don't recall.

Q. After Monday or before Monday? A. I think it was Monday afternoon, after the group had decided that they were going ahead and take that action. I said in that case, I stated that I would do what the majority did and so I got a card from somebody and took the action.

2585

Q. And who did you give the card to? A. Mr. Hatcher.

Q. Do you know what Mr. Hatcher did with these cards? A. No, I don't.

Q. Have you seen them since? A. I have seen one card since, I don't recall the date but it was slightly over two weeks ago, a card belonging to Mr. H. H. Mann, along with a clean blank card, which was stuck in the calendar on the desk of my division engineer, Mr. E. R. Thomas.

2586

Q. Do you know whether or not after April 23rd, the following Monday, steps were taken by any men in your bureau to collect I.B.E.W. dues? A. No, no steps were taken to collect I.B.E.W. dues.

S. M. 977

Q. Have there been any other meetings since that date or since those dates within the plant for the purpose of securing membership in the I.B.E.W.? A. None that I can state definitely. There were a couple of contacts I believe made between certain division engineers and certain individuals in their division who had not signed the cards, but I don't know the names or dates involved at the moment.

*Arthur Currie Joy—For N.L.R.B.—Direct*

2587

Q. That is something which was reported to you?

A. Yes sir.

Q. You testified that Mr. Ganley was formerly chairman of the general council of the E.R.P.? A. E.R.A. it was in the New York Edison; E.R.P. in the Gas Branch. The two had never merged even though the companies had.

Q. Was he chairman of the association right up until the time it was disbanded? A. Yes.

Q. And do know where he worked? A. Well, formerly, I believe he was a cable hand. He had been chairman in the first year, 1933. The second year, I guess the 1st year was 1934, when the elections took effect, he was chairman again the following year, the second year. He was vice chairman the third year and he was chairman again the fourth year.

2588

S. M. 978

Q. Which was 1937? A. 1937.

Q. Do you know him personally? A. Yes.

Q. Had you spoken with him at any time before April 23, 1937? A. Certainly, I was on the general council with him part of 1937 and I had sat in there as the alternate during part of 1936.

2589

Q. So that you worked with him constantly, is that right? A. Not constantly, at various times.

Q. Now, while you were a member of the plan, could you leave your duties whenever you wanted to and engage in plan activity? A. At leaving,—as to leaving whenever I wanted to, I don't know. Nothing whatever was said to me one way or another. I was free to go and attend the general council meetings.

Q. If you had some plan work to do, you did it, and that was all there was to it; is that right? A. Yes.

Q. Now, since the plan has become disbanded and

2590

*Arthur Currie Joy—For N.L.R.B.—Direct*

you have become a member of this independent union, can you do the same thing? A. Absolutely not. I am doing my own work now.

Q. The company is getting a better day's work?  
A. Absolutely.

S. M. 979

2591

Q. And if you have your independent union activity to engage in do you do it on your own time, during your working hours, or after working hours? A. After working hours.

Q. Now, you say that you knew Mr. Ganley well, that you were on the council with him. Did he have anything to say with you about a meeting that he was to have with Mr. Carlisle, regarding the I.B.E.W.? A. You mean a personal meeting or an open meeting?

Q. An open meeting? A. Well, if I may refer to the notes again?

2592

Q. Yes. A. On April 21st, as I mentioned before, a committee was appointed to contact the labor Board. The vice chairman of the general council, Mr. Maddie, was chairman of that committee. Instead of bringing his committee down to the Labor Board to find out about it, Mr. Maddie accompanied Mr. Ganley and Mr. Hinckley to Mr. Carlisle's office in response to a telephone call that had come to the general council office. I don't know whether the call asked for Mr. Ganley alone or whether it asked for several. Mr. Ganley stated after he came back down, was told that the group had been up there, said that Mr. Carlisle had told them that they could have a local charter from the I.B.E.W. and advised them to go see Mr. Tracy up at the Hotel Roosevelt and they did go up there immediately, taking two other members with them

S. M. 980

which was the reason why the committee did not come down here, because the chairman had gone off to see Mr. Tracy.

Q. Who are the two other men they took with them?

A. Tom Hart and Joe Lazard.

Q. Were they then members of the general council?

A. Yes.

Q. And that all took place on April 21st, is that right? A. That is correct.

Q. Now, at that time, these men were still members of the general council and Mr. Ganley was still chairman of the general council? A. That is correct.

2594

Q. There has been no change in that status, has there? A. No, sir.

Q. At that time you had heard of no announcement in the press that the I.B.E.W. was recognized?

A. Oh, yes, that came out on the 20th.

Q. I see. And after Mr. Ganley came back and reported to you that Mr. Carlisle stated that the men could have an I.B.E.W. local charter, was there a meeting held again in the auditorium? A. No, he did not come back and make such a report. The meeting was supposed to reconvene in the afternoon. We went in to the general council office and Ganley, Maddie and

2595

S. M. 981

Hinckley were just about to breeze out and we inquired where they were going and they said they were going up to see Mr. Tracy, they had been up to see Mr. Carlisle in response to the telephone call and they were now going to see Mr. Tracy as Mr. Carlisle advised. That was possibly two or two thirty in the afternoon, I don't recall. They returned about seven o'clock at night.

2596

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There were possibly fifteen or twenty people who had been standing around waiting to find out what they were doing. At that time they came back and said that Mr. Tracy offered the general council a local charter; that a general council had taken over the charter and would act as it is.

I don't know just what capacity, but they wouldn't have any organization until December when they were going to elect officers and they were going into the local with the standard I.B.E.W. regulations.

2597

At that time, when they came, I suggested to Mr. Ganley that Mr. Carlisle be invited to a meeting, to an open meeting, of the entire group to tell us why the company had taken the action that it did, and he said then that he would try and get Mr. Carlisle to attend such a meeting the next day.

Q. Was that done? A. Yes, that was done.

Trial Examiner Gates: When you come to a stopping place, I don't want to interrupt, Mr. Moscovitz, we will take a short recess.

S. M. 982

2598

Mr. Moscovitz: This is a good point.

Trial Examiner Gates: We will recess then for five minutes.

(Whereupon a five minute recess was taken.)

*After Recess:*

Q. (By Mr. Moscovitz) Now, you testified that you had all waited around until about seven o'clock the night of the 21st? A. That is correct.

Q. And Mr. Ganley came back and made his report?  
A. Yes.

Q. And it is about that that you had been telling us? A. Yes.

Q. At that time Mr. Ganley was still, so far as you knew, a chairman of the general council? A. That's right.

Q. Did Mr. Ganley and these other gentlemen whom you have named, they were with Mr. Carlisle during their regular working hours? A. Yes.

Q. Did you have a meeting the following day with Mr. Carlisle? A. Yes, there was a meeting, another meeting in the auditorium in the morning and in the afternoon there was a meeting held in the cafeteria at which Mr. Carlisle was invited to attend. 2600

S. M. 983

Q. Now, before that meeting can you tell me whether or not on the 21st of April any organizers of the I.B.E.W. were provided with desk space in the company's general office building at 4 Irving Place for the purpose of securing membership? A. During the afternoon of the 21st the telephone calls came in to the office of the general council for Mr. Ed Flanagan. He was not there and the person on the other end asked to speak to me. 2601

Q. Who is Mr. Flanagan was the member of the general council, from the service inspection and records department? A. Yes.

Q. Yes. A. I answered the phone and Mr. Dudley Ward, who was also a member of the general council representing several small departments—

Q. Where was he employed? A. He was employed in what is known as the distribution and co-ordination department.

Q. Yes. A. And he stated that he was down on the 6th or 7th floor, I have forgotten which and that



2602

*Arthur Currie Joy—For N.L.R.B.—Direct*

I.B.E.W. organizers were down there with desk space and the men were being allowed or otherwise lined up, to join up with them.

Q. He also later in the afternoon, he came up to the general council office in person and was telling me about the case and said that he had talked with one of the

S. M. 984

2603

organizers and he asked the organizer how many members they had among the employees before they started this big push on the 20th. The organizer replied rather vaguely that they had "Oh, quite a number", but after several repeated instances he admitted that 15 would probably cover it.

Q. Where is Dudley Ward working now? A. As far as I know he is still in the same place, the distribution coordination department.

Q. Is that at 4 Irving Place? A. 4 Irving Place.

Q. Did he give you the name of the organizer? A. No.

2604

Q. At this time you only knew of Mr. Carlisle's statement regarding recognition but you did not know of any contract having been executed, did you? A. No.

Q. Did you know whether or not a contract was in existence at that time between the Consolidated Edison Company and the I.B.E.W.?

Judge Ransom: I object to that as incompetent, calling for a conclusion, not a method of proving the fact that this witness could possibly know.

Mr. Moscovitz: Well, I wonder if Judge Ransom has produced the copies of the contract which I asked if he would. There has been no

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notice to produce or subpoena, but I simply, in accordance with an understanding we had, I simply asked him.

Judge Ransom: You are referring now to a contract as to recognition, or a contract as to wages, hours and working conditions?

Mr. Moscovitz: Well, I did not know that there were separate ones.

Judge Ransom: Well, there is a contract.

Mr. Moscovitz: It is my understanding that there was a contract of recognition. 2606


Judge Ransom: The recognition was of course an exchange of letters as has been testified here. The wage, hours and working conditions contract is in pursuance of and subsequent to the recognition. I think I have copies of those letters if you want to put them in evidence now.

Mr. Moscovitz: Well, I would like to see both of them if I may.

Judge Ransom: I produce what I state to be a copy of a letter dated April 16, 1937 from D. W. Tracy, President of the International Brotherhood of Electrical Workers to Mr. Carlisle, and a copy of Mr. Carlisle's response thereto dated, to Mr. Tracy's, dated April 20th, 1937, that being the correspondence as to recognition of the I.B.E.W. as a bargaining agency for its members. I have here somewhere if it 2607

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is desired at this time a copy of at least one of the subsequent contracts as to wages, hours and working conditions. I produce also a copy pur-



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suant to request, a copy of the memorandum of agreement between the Consolidated Edison Company and the International Brotherhood of Electrical Workers through its local union, BA-29, applicable to all employees of the Edison Company who were members of the Brotherhood and who are engaged in operations of specified types.

2609

Mr. Moscovitz: Judge Ransom, this letter signed by Mr. Carlisle refers to a contract along the lines of the proposed agreement enclosed, is that this agreement which you just handed me?

Judge Ransom: No, Mr. Tracy originally submitted with his letter of April 16, 1937, a suggested form of agreement with respect to wages, hours and other matters. The matter was a subject of subsequent and further negotiations between the Local BA-29 and Mr. Tracy on one side and Mr. Carlisle, and the others in behalf of management, which resulted in the agreement which was to and did go into effect on June 15th. The agreement was executed as a result of the bargaining between the local and Mr. Tracy and the management and is not in the exact form in which it was submitted by Mr. Tracy with his letter of April—

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Mr. Moscovitz: April 20th?

S. M. 987

Judge Ransom: Of April 16th.

Mr. Moscovitz: Yes, the 16th. Thank you very much for the production, Judge Ransom.

I would like to offer, Mr. Examiner, at this time a copy of the letter from Mr. Tracy to Mr. Carlisle, dated April 16, 1937, and the copy of

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the reply to Mr. Tracy from Mr. Carlisle dated April 20, 1937.

Judge Ransom: No objection.

Trial Examiner Gates: Admitted.

Mr. Moscovitz: We will admit it as one exhibit. They are attached. If that is agreeable?

Trial Examiner Gates: Mark them Board's exhibit #13a and 13b.

(Documents referred to were marked Board's exhibits #13a and #13b, Witness Joy, for identification.)

2612

Mr. Moscovitz: I would like to have marked for identification again at this time the memorandum of agreement between the Consolidated Edison Company of New York and the I.B.E.W. which is dated June 15, 1937.

(Document referred to was marked Board's exhibit #14 for identification, Witness Joy.)

Judge Ransom: I may state, if you desire it, that the agreements with other local unions, between other companies and other local unions, are generally in the same form and to similar effects, with some minor variations due to particu-

2613

S. M. 988

lar situations as to the labor forces and operating conditions of those companies in their localities. If it becomes pertinent and you desire it, I will produce copies of any or all of the others.

Mr. Moscovitz: Can you answer me this, Judge? Do the other agreements which have been executed and each of the other companies named in this proceeding have a similar provision

2614

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as is found in Board's exhibit #14 for identification? I refer to article I, under which is "Scope", subsection 1.

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Judge Ransom: In all of the agreements of article I "Scope", paragraph 1 thereof, it is provided that this agreement shall apply to all employees of the particular company who are members of the Brotherhood and are engaged in operations essential to the furnishing of—then that paragraph varies necessarily according to the type of services and the employees engaged therein. For example, this particular agreement, Board's exhibit #14 for identification, involving Local Union B-829, relates to the furnishing of electrical service, and consequently the phraseology and specifications of the latter part of the paragraph are such as are pertinent to that company's electric operations in its particular locality.

There is, however, a uniform agreement that this agreement applies to all employees who are members of the Brotherhood.

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Mr. Moscovitz: Yes, and are the other agreements signed by the same persons as signed this agreement?

Judge Ransom: The respective agreements are signed by the company for the officers of that company and for the employees who are members of the Brotherhood are signed by the International President of the International Brotherhood of Electrical Workers and by whatever committee from the particular local union was authorized by its members to negotiate the agreement.

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Mr. Moscovitz: Yes, and if I may ask you one or two other questions, Judge? It might do away with the necessity of bringing in any of the other contracts.

Are all of the other companies named in this proceeding now covered by contracts?

Judge Ransom: I am informed that contracts have been signed by each of the respondent companies and the appropriate local union, and such contracts are now in force.

Mr. Moscovitz: Yes, and are all of them executed as of the 15th of June? 2618

Judge Ransom: I think not, sir. I think that they have been executed on or as of—I think they were executed on different dates, during June, but whether they were all executed to become effective as of June 15th, I am not able to state.

S. M. 990 :

Mr. Moscovitz: And were they all preceded by a letter similar to Board's Exhibit #13 from Mr. Tracy to Mr. Carlisle?

Judge Ransom: Why, my impression is, and I believe it is correct, that there was only one letter from Mr. Tracy to Mr. Carlisle on April 16th and only one response. There were not separate letters with respect to each of the respondent companies. 2619

Trial Examiner Gates: While we are still on that same point, will you state the names of the locals, if there is more than one, which are involved?

Judge Ransom: I do not know as I have here the numbers of the locals. I may state the situation and I can supply the numbers later.



2620

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In the Consolidated Edison Company there are two local unions of the I.B.E.W. with which separate contracts were made. One is B-829, which has just been identified. That relates to electric employees. There is another with a local whose number I am not able to state from recollection which relates to the gas employees of the I.B.E.W. of the company, who are members of the I.B.E.W.

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Then there are contracts with the appropriate local made by the Brooklyn Edison Company, New York and Queens Electric Light and Power Company, and in Westchester County, the Westchester and Yonkers Companies have one contract, a joint contract, with one local union of employees of the Westchester and Yonkers companies.

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Then there is a contract with a local union of employees of the New York Steam Corporation, and a contract with a local union of employees of the Consolidated Telegraph and Electrical Subway Company.

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And I may say that so far as substantive provisions, the contracts are identical in wording and effect, the variances being due to particular working or operating conditions affecting some of the respondent companies. For example, the Consolidated Telegraph and Electrical Subway Company has provisions in some of the articles, which are at variance from those of the Electric Companies.

**Trial Examiner Gates:** Is there any distinction made as to employees on the production and distribution of gas in any of the companies other than the Consolidated Edison?

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2623

Judge Ransom: Well, sir, in the City of New York there is only one company in this system and that is the Consolidated Edison, this one gas company. The only other company in the system which distributes gas is a company which does not manufacture gas, that is the Westchester Lighting Company, and if my impression is accurate, I believe that the contract of the Westchester Lighting Company with the local union of the employees of the Westchester Lighting Company and the Yonkers Electric Light and Power Company includes the employees who, in that county, are engaged in distribution operations which are—as

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you may say, jointly gas and electric. They have the system, for example, in Westchester County, under which things like meter reading and billing and the like is done as a joint operation. The only manufacturing company, in the ordinary course, so far as gas is concerned, in the system, is the Consolidated Edison Company.

Trial Examiner Gates: Proceed.

2625

Mr. Moscovitz: May I proceed?

Trial Examiner Gates: Yes.

Q. (By Mr. Moscovitz) The following day which would be April 22nd, you testified that there were two meetings in the auditorium? A. One in the auditorium and one in the cafeteria.

Q. And when was that, was that at 4 Irving Place?

A. Yes.

Q. Well, did you attend both meetings? A. I did.

Q. Did you attend the morning meeting? A. Yes,

sir.

2626

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Q. What took place there? A. Nothing unusual.

Q. Did Mr. Carlisle attend that meeting? A. No, he did not attend that meeting, there was nothing of any importance that transpired there except the member or members of the committee that had been ap-

S. M. 993

pointed to contact the National Labor Relations Board to find out if an independent organization was legal, reported that they had contacted by telephone and were told that it was, provided it was actually an independent organization and not company supported.

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Q. Did they report to whom they had spoken in the labor Board? A. I don't recall whether they did or not.

Q. Did you attend the afternoon meeting? A. I did.

Q. What took place there? A. There was some preliminary discussion, I don't recall.

Q. Who attended? A. Anything that was said.

Q. Who attended? A. Members of the general council and various other departmental and bureau councils of the employee representative association.

2628

Q. Any representatives of management there? A. Only Mr. Carlisle and Mr. Grove.

Q. Who is Mr. Grove? A. Vice President of the Consolidated Edison Company.

Q. All right, tell us what took place after Mr. Carlisle got there? A. Well, there were a number of questions which had been written out and given to Mr.

S. M. 994

Gapley, the chairman of the E.R.A. and he asked those questions of Mr. Carlisle for answers and then there were some questions from the floor. One of the first

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questions was, "Would he explain exactly why the company had taken the steps it had, in recognizing the I.B.E. without consulting the employees to find out what their preference was in the matter".

His reply was to the effect that the Supreme Court had upheld the Wagner Act and if the company that was engaged in Interstate Commerce, that it would then be violating the law and actually in meeting with that organization but regardless of that there was a state bill before the state legislature covering the same ground which was very certain to be passed and that, abiding by the spirit of both laws that the company would have to cease to deal with a company supported organization, that he had received the letter from Mr. Tracy, asking that the I.B.E.W. be recognized as the collective bargaining organization and he was granting that recognition..

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The question as to why the employees were not consulted was not answered.

Q. Did he make any statement as to whether or not he desired the employees to become members of the I.B.E.W.? A. Yes, indirectly, one question was put to him as to whether or not the policy of the foremen and other supervisors, instructing or advising

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**S. M. 995**

their men to join the I.B.E.W. had company sanction, had management sanction. His reply to that was that they did not. There was no management sanction given for that, he was then asked would he please issue a statement or order to those men to stop doing that and his reply to that was that he would not.

In reply to another question, I have forgotten just what it was, he stated substantially that, "Make no mistake about it, I have agreed to bargain with the

2632

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I.B.E.W., I intend to do so and I hope the employees will make this effort successful."

Q. Did the general council meet at any time after that on the same day? A. Yes, it met twice after that on the same day.

Q. Did you meet in the evening? A. Yes, we met in the afternoon and again in the evening.

Q. With whom did you meet in the afternoon? Just the general council? A. Just the general council.

2633 Q. For the purpose of discussing what had taken place at the meeting? A. That's correct.

Q. And did you come to any decisions? A. When the meeting at the auditorium broke up, Mr. Ganley stated that members of the general council should meet

S. M. 996

2634 in the general council office to start forming an independent organization. We went down there and when the meeting convened, I told him that they might as well forget it because I had that day attained a glimpse of a copy of the Doyle Bill and that under the bill if it became a law, the organization that sprang up as an outgrowth of the E.R.A. would have no status whatsoever, it would be legally defined still as a company union and they might as well drop the whole idea, that was the sum and substance of that meeting.

Q. What happened in the evening meeting? A. Well, I was somewhat late in getting to the evening meeting, I don't know just what transpired in the evening.

Q. Where did you meet? A. In the Board room on the 14th floor.

Q. That's the Board of Director's room? A. I presume so, it is just known as the Board room.

Q. Yes. A. At that time, when I arrived at the



meeting Mr. Ganley was talking about the general council, contacting Mr. Tracy, to take up the matter of getting a charter.

He called Mr. Tracy on the phone and asked for an appointment that night. Mr. Tracy said he could not come down and he stated that, or they asked if they could go up to see him at his hotel and he said again that they could not, that he was busy, but he would

S. M. 997

see them on the following day.

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Q. Now, all these meetings that you were having these days were held during working hours, were they?

A. Except the evening meeting—

Q. Except the evening meeting you just testified about? A. That's right.

Q. Well, they were all held in the auditorium in the Board room and on other company property? A. And in the general council office on the 12th floor.

Q. Yes. And did these meetings have the approval of your foreman and other supervisory employees?

A. As far as I know.

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S. M. 998

Q. In other words, you still went without any question? A. That is correct.

Q. By foremen or supervisory employees about your going, is that right? A. So far as I know personally.

Q. None of you had any deductions from your pay for the time you spent doing this? A. No.

Q. All right, and around April 23rd, which was the day after the telephone call of Mr. Tracy, did the general council meet again in the board room? A. The general council met again that morning about nine



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o'clock, they were supposed to meet Mr. Tracy at ten.

Q. Now, who was the leader among you men at that time, still Mr. Ganley? A. Mr. Ganley was still the chairman.

Q. Yes. A. There was some general discussion of the situation, all of the members were not there.

Q. Did you have a majority of your membership present? A. Yes.

2639

Q. Go ahead. A. At that time most of the men took the attitude that if the general council did not accept the offer of the charter made, some other groups of employees would and they thought it best that they

S. M. 999

accept the offer so that the charter would be in good hands.

2640

Q. Who said? A. I don't recall who made that specific statement, but that was the general idea at that meeting, and I introduced a resolution calling for the issuance of a statement to the employees to tell them what was happening because I knew that they did not know what was happening, ending up, the statement would have ended up with the conclusion that the general council had received offers of charters from both the I.B.E.W. and the United Electrical & Radio Workers, and that they could not see their way clear to accept either offer and consequently had voted to disband and that any action taken by individuals would be as individuals. They, the majority, did not approve of that because of the fact that they said if they voted to disband, the offer might not be any good and we wanted the charter for ourselves.

But the statement was not issued and the motion

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2641

to disband was not carried. There was actually no motion under the resolution introducing this statement.

Q. Well, did you men then go to see Mr. Tracy? A. I did not. I had spoken the pervious night and told them that I was not going, that I wanted no part of it. I had raised questions during that meeting the preceding evening as to how many people there who

S. M. 1000

were talking about accepting the offer had read even a portion of the constitution of the organization that they were planning to accept the charter from, and that here were only two members besides myself who had read a portion of it.

2642

I brought out some of the features in there that were extremely objectionable, and Mr. Ganley suggested that I take those up with Mr. Tracy the next day, when we met with him, that maybe they could be waived, and to that, my reply was that a constitutional provision could not be waived even if Mr. Tracy wanted to, and that he wouldn't if he could, and that I wasn't going to meet with Mr. Tracy anyway because I wanted no part of it.

2643

Q. And this is still the 23rd of April that you are talking about, the meeting of you— A. What I was speaking of then was the evening meeting after the meeting with Mr. Carlisle.

Q. Now, then, on the 23rd—

Judge Ransom: What was that date?

The Witness: That was the 22nd.

Q. (By Mr. Moscovitz) But you had, immediately before that, been telling us about the meeting of April 23rd? A. That's right.

Q. That was during the day? A. That was during the morning, between nine and ten o'clock.

2644

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Q. And that was during your regular working hours? A. Yes.

Q. And you had a majority of your council members there? A. That is correct.

Q. And after your discussion, in which you lodged a certain protest, as I understand it, your meeting broke up; is that right? A. The meeting adjourned for the majority to go see Mr. Tracy about getting the contract.

2645

Q. And you refused to go? A. That's right. They said that they were going to meet again in the afternoon, that they were not going to accept a charter, but they were going to discuss it, and they would meet again in the afternoon and would let those members who were not at that meeting with Mr. Tracy know by telephone when to meet.

They then went to the Hotel Roosevelt to meet Mr. Tracy.

2646

Q. Did they report to you gentlemen? A. I received no word of any meeting that afternoon. I later received word verbally that the group had come back to the place, had gotten together, and had signed a petition for the charter without calling any further meeting.

Q. From whom did you receive that word? A. Mr. W. I. Johnson.

Q. All right. Now, on that same day—by the way, these men who made up the majority of the council,

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were they all from the same building that you worked in? A. No, they were scattered throughout the company, throughout the electrical branch of the company.

Q. They also were doing this on their regular working hours of time; is that right? A. Yes.

Q. Now, on the same day, April 23rd, do you know whether or not there were meetings outside of the meeting that you attended, of employees, where the employees were requested to become members of the I.B.E.W.? A. The 23rd? I don't recall any, except the massing together of the men in my own bureau at lunch time and again at five o'clock.

Q. By whom? A. Well, we were meeting over in the corner twice a day to keep posted on the latest developments.

Q. Do you know whether or not the division leaders and other group heads in the outside plant bureau of the electric engineering department called groups to them and gave them advice as to what they should do regarding the I.B.E.W.? A. Yes.

Judge Ransom: Objected to, as wholly incompetent and as hearsay. The witness obviously doesn't know. It is second, third or fourth degree hearsay.

S. M. 1003

Mr. Moscovitz: We do not know yet.

Trial Examiner Gates: He may answer if he knows.

A. The 23rd is the day I spoke of, when the division heads did hand out the cards and did give sales talks to their employees.

Q. Yes. And that is the period and the meetings about which you have already testified? A. Yes.

Q. All right. Now, those are the meetings to which you referred where cards were handed out which were brought back on the 26th? A. That's right.

2650

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Q. And can you tell me whether or not at that time Mr. Ganley was still chairman of the employee representation plan?

Judge Ransom: Objected to as calling for a conclusion. The witness has testified that the plan had died some days before.

Mr. Moscovitz: I understood it was in the throes of death.

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Judge Ransom: Well, I expect it was pretty well dead when the management said on the 20th that they couldn't further deal and negotiate with it about anything.

Mr. Moscovitz: Well, I wonder—

Q. (By Mr. Moscovitz) Was it buried? A. I expect it was by that time. I had no more information

S. M. 1004

about it after that meeting in the morning.

2652

Q. Do you know whether or not the officers of the general council, after the meeting with Mr. Tracy on the 23rd day of April, rather, the 22nd day of April, became officers of any other labor organization?

Judge Ransom: Objected to as incompetent, highly improper in form. I have no objection to inquiries as to whether the persons who formerly were officers in the general council or the dead and buried general council, whether they later did anything. They had a right to.

Trial Examiner Gates: You may answer.

Judge Ransom: Exception.

A. The offer was made in person to the five men who went to see Mr. Tarcy originally, that a charter would be given to the members of the general council, that



would be taken over intact and its officers would become officers of the local. That offer was confirmed by letter, copies of which were distributed around the company, and it was apparently also confirmed at the meeting at which practically the entire general council went to see Mr. Tracy.

Judge Ransom: I move now to strike out the answer, on the ground that the letter is the only acceptable evidence of such a matter.

Trial Examiner Gates: It may stand.

Judge Ransom: Exception.

2654

S. M. 1005

Q. (By Mr. Moscovitz) Then what happened?

Trial Examiner Gates: I call attention to the fact that the question was not answered completely.

Q. (By Mr. Moscovitz) The question, Mr. Witness, is whether or not the officers of the employee representation plan, these five men who went over to see Mr. Tracy, became officers of any other labor organization, after they returned? A. The officers of the general council became officers of the local union, B-829, I believe it is, of the I.B.E.W. The chairman of the general council became president or general chairman, whatever the term is, in the I.B.E.W. local—

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Q. That is Mr. Ganley? A. Yes. The vice-chairman, Mr. Maddie, assumed the vice-chairmanship or vice-presidency of the I.B.E.W. local. The secretary of the general council, Mr. Hinckley, became the financial secretary of the I.B.E.W. local, and two members, two other members of the general council became officers of the local.



2656

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Q. And they still hold such office? A. So far as I know. I don't know anything about their internal workings at present.

Q. Do you know whether or not Mr. Ganley is still employed by the company? A. I do not.

S. M. 1006.

Q. You have not seen him since the death of the plan? A. No.

2657

Q. And can you tell me whether or not, after the April 26th episode, where the men returned their application cards, you saw, at any time, the collection of dues for the I.B.E.W. on company property? A. No, I have not seen any collection of dues whatsoever.

Q. Did you have discussions with a collector of dues who had been collecting on company property? A. Yes.

Q. Who was that? A. I cannot recall his name at the moment. If you will give me just a moment, I think I will find it.

Q. All right. A. That was Walter Hartnett.

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Q. Who is he? A. He is an employee in the service inspection and records department, who was a member of the departmental council of that department under the E.R.A. He stated in my presence that he had collected over \$220. in dues for the I.B.E.W.

Q. When was that that he told you that, when was that that he told you? A. Well, I don't know the exact date, approximately on the 4th, about the 4th of May.

S. M. 1007

Q. May 4th? A. Yes, 1937.

Q. Did he say that he had collected dues or initiation fees? A. I don't recall the exact statement, the

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2659

two are usually considered synonymous, in all the discussions around the company.

Q. Did he tell you where he had been collecting these dues or initiation fees? A. Among the employees in his own department.

Q. Did he tell you whether he had been doing it during or after working hours? A. No, I don't believe he did.

Q. Was he on the company's payroll at that time? A. Yes, so far as I know.

Q. Where was the office of the general council? A. That was on the twelfth floor of the company building at 4 Irving Place.

2660

Q. Is that office still there in use by employees? A. That I don't know, for what purpose it is being used now, I have not been down there.

Q. Do you know whether or not it was used at any time after the 20th, that is, in 1937, for I.B.E.W. activities?

Judge Ransom: I object to that as calling for a conclusion, incompetent in form.

S. M. 1008

2661

Trial Examiner Gates: You may answer.

Judge Ransom: Exception.

The Witness: I was informed, I don't recall the date—

Q. (By Mr. Moscovitz) By whom were you informed? A. By—just a moment—I was informed by at least two people, one was W. I. Johnson, and the other—

Q. Who was W. I. Johnson? A. He was a member of the general council from the system engineering department.

2662

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Q. Yes. A. And the other, his name I can't recall at the exact moment, he was a representative from the commercial buildings department, and is now the treasurer of the I.B.E.W. Local B-829.

Q. What were you informed? A. That the general council office was still being used by the members of the ex-general council, that they had not moved out yet to their new I.B.E.W. headquarters, they were handling activities from there.

2663

Judge Ransom: I move to strike out the answer to both questions, on the ground as purely hearsay and incompetent.

Trial Examiner Gates: It may stand.

Judge Ransom: Exception.

Q. (By Mr. Moscovitz) You also what? A. I also was informed by employees that he had taken a newspaper reporter in there.

S. M. 1009

Q. Who informed you that? A. Mr. William O'Brien.

2664

Q. Who is he? A. He is an employee of the commercial relations department, I believe.

Q. Commercial relations? A. Yes.

Q. Yes, go ahead. A. That he had taken a newspaper reporter in to the room formerly used by the general council, that they were using it at that time, that they had been in there from time to time—they had been in there in time to hear Mr. Ganley, who was then the chairman, or the president, whichever it is, the I.B.E.W. local say, "To hell with the signatures, it is money Tracy wants."

Q. Well, was that after April 20th, 1936? A. Yes, it was, I don't recall, I don't recall exactly the date of those instances.

Q. Approximately? A. They were after April 20th, there is no question about that.

Q. Were they after April 23rd? A. Yes.

Q. All right, now, do you know whether any employee of the company at any time after April 23, 1937, was engaged only in organizational work for the

S. M. 1010

I.B.E.W. while still on the payroll of the company?

A. Yes.

Q. Who? A. W. I. Johnson.

2666

Q. That's the gentleman about whom you have just told us? A. I mentioned it before.

Q. Yes. A. He stated that the only work that he was doing at that time was contacting the employees in his bureau to line them up for the I.B.E.W. and I also learned that the business manager of the local I.B.E.W., Mr. Patrick McGrath, was also on the company payroll during the time that he was actively organizing.

Judge Ransom: I move to strike it out, completely as wholly hearsay and not in any way probative upon any issue here.

2667

Trial Examiner Gates: It may stand, if the witness states the basis of his knowledge.

Judge Ransom: Exception.

The Witness: The basis of the knowledge is a statement from Mr. McGrath himself, he had planned to come down to see me to try to sell me into the idea of joining the I.B.E.W., and the next day, the day he was supposed to come down to see me, he called me up and said that he could not come down; he was back to work.

2668

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S. M. 1011

I said, "what do you mean back to work, back at 41st Street?" He said, "Yes, the Doyle Bill was signed yesterday."

I said, "Aren't you off the company payroll on leave of absence?" He said, "No."

Mr. Moscovitz: That's all.

Trial Examiner Gates: We will recess until 1:45 o'clock.

2669

(Whereupon, at 12:45 p. m., a recess was taken until 1:45 o'clock p. m. of the same day.)

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AFTERNOON SESSION.

Trial Examiner Gates: Proceed.

ARTHUR CURRIE JOY, resumed the stand.

*Cross Examination:*

2670

Q. (By Mr. Ransom) Mr. Joy, bring back to your mind, if you will, that afternoon meeting on April 22nd, at which various employees who had been officers and members of the councils were in attendance; you said that meeting was called by Mr. Ganley, as far as you know? A. As far as I know, it was.

Q. In the course of that meeting, was some committee sent to bring Mr. Carlisle before the meeting?

S. M. 1012

A. I was, I was a member of that committee.

Q. And you did that? A. The chairman, Mr. Ganley, called four names and said, "I'll ask these four people to go down to Mr. Carlisle's office and bring him up."

Q. Mr. Ganley had some questions which had been developed by various employees which they wished to put to Mr. Carlisle? A. That's right.

Q. Do you remember Mr. Carlisle being asked this question: "Is it to be a closed shop?" A. I do.

Q. Do you remember whether Mr. Carlisle's answer was as follows: "I wish to say that all of the discussions which we have had with the International Brotherhood of Electrical Workers does not include the closed shop?" A. It was substantially that, I don't recall that they were the exact words.

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Q. But certainly to that effect? A. It was to that effect, up to that time there had been no discussion of a closed shop, he did not say that there would not be, though.

Q. At the meeting on the preceding day, the question of a closed shop or the question had not come up in any way, or were you present at the meeting of the council chairman with Mr. Carlisle? A. No, I

S. M. 1013

was not.

Q. You were not there? A. No.

2673

Q. But as far as you were concerned, that was the first time that you had heard that question being raised in the discussions? A. Well, the matter had been discussed.

Q. I mean, as far as the discussion with management? A. That's correct.

Q. Mr. Carlisle's answer was either what I have read or to a similar effect? A. Right.

Q. Now, you said this morning that the question was asked about the practice of foremen advising employees to join the I.B.E.W., and Mr. Carlisle's reply to that question. I ask you whether you recall whether



2674

*Arthur Currie Joy—For N.L.R.B.—Cross*

Mr. Carlisle said, in the first place, "It is perfectly obvious that when I answered Mr. Tracy's letter, stating that we would engage in collective bargaining, it meant just what it did, and as far as I am concerned, I hope that it goes through and that the employees do everything they can to make it a success." Do you remember that statement? A. Substantially that, not altogether.

Q. But there is no conflict as to the substance of what was said? A. No.

2675

S. M. 1014

Q. Now, let me ask you, in connection with that question of any activities of foremen and employees in inducing employees to sign up in the I.B.E.W.,—whether Mr. Carlisle made this statement: "Let me make it very plain, no member working for this company has got to do anything except what they want to do individually, on their own. I will be very clear about that. It is your selection. You are to do as you please. We are not taking the position that you must do this or you cannot do this. You have to make the choice." A. He may have said something like that, he made some such statement as that, yes.

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Q. Either the statement which I have read or a substantially equivalent statement to similar effect? A. Correct.

Q. Do you remember the question being brought up and put to Mr. Carlisle as to the truth of rumors that vacations and sick pay and the other numerous welfare measures of the company were to be discontinued under I.B.E.W. bargaining. Do you remember that? A. The question was raised, yes.

Q. Do you remember Mr. Carlisle's reply to that? I ask you whether he replied to this effect: "I have

S. M. 1015

said on every occasion that this question has been raised, but it is the desire of the company to preserve everything that is being done for the men as is?"

A. That sounds approximately as I remember it.

Q. Do you remember the question being raised then as to if and when the agreement that would show the details of any agreement on wages, hours and any other working conditions between the company and the I.B.E.W. and its local union as to if and when that would be published, do you remember that question being asked? A. I can't say that I do.

Q. Do you have any recollection of that? A. No.

Q. Were there various questions asked as to whether the company in view of the prospective taking effect of the Doyle-Neustein Bill, would or could continue any manner of financial support for an independent organization of employees if one was formed? A. I do not remember any such question as that, no, sir, the question was, as I remember, it was stated that we understood that they could not support any independent organization at all and the question that was put to him was whether or not he would allow a secret ballot to let the employees decide for themselves whether or not they wanted an independent organization or just what they did want.

S. M. 1016

Q. Well, the question was asked, was it not, whether, as you say, there could be a secret ballot of employees to see whether they wished some international organization or some purely independent organization of their own? A. That question was put to him several times.

Q. Do you recall that he replied with a question on

2680

*Arthur Currie Joy—For N.L.R.B.—Cross*

his own part as to whether employees would expect the management to pay the expenses of conducting such an election? A. That's correct, he did ask that. —

Q. Do you recall whether Mr. Carlisle stated to the employees in substance as follows: "You go out and do what you want, but so far as the management is concerned, it cannot and will not pay any money for that purpose"? A. Substantially, that, yes, sir.

Q. Either in those words or to that effect? A. That's right.

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Q. And did he explain also that if it were finally determined that the company and the employees in their relations with management were subject to the jurisdiction of the Wagner Act and the National Labor Relations Board, that any such practice on the part of the company would be contrary to the spirit, if not the letter, of the Wagner Act? A. He, as I remember, stated that if they were under the jurisdiction of the Wagner Act and the National Labor Relations Board, that meet-

S. M. 1017

ing with us at that time—

2682

Q. Yes. A. Would be a law violation and that he was violating the spirit of the law in so meeting.

Q. Well, didn't he say that to continue those payments, it would be, if it were held that the company came under the Wagner Act, which had just been upheld by the Supreme Court, that if it were held that the company did come under the Wagner Act it would be contrary to the spirit, and letter of that Act for the company to continue to make such payments for the expenses of a collective bargaining organization? A. Well, for the expenses of a collective bargaining organization, yes, I do remember that he went into that in connection with the secret ballot.

*Arthur Currie Joy—For N.L.R.B.—Cross.*

2683

Q. You don't recall when the question was put to him as to having a secret ballot of the employees to determine what the employees wanted, that the first question which he asked was whether the employees had any idea of the management paying the expenses? A. Yes, that's correct.

Q. And then he went on and explained why that could not be done? A. I don't recall that he explained it, the only thing that I recall is that he refused it.

Q. Do you recall if he made the statement or a state-

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S. M. 1018

ment similar in effect, "When on Tuesday we met with the chairman of the councils, we told them exactly that so far as continuing the present plan was concerned, we were through, we had to be through under the law, we ended it then, so far as the plan is concerned, in the shell of technicality, yes, it may be still in existence, but the management cannot go on in the spirit of the law dealing with it." A. He made substantially that statement, yes, under the spirit of the law that they could not continue dealing with the organization.

Q. Did he say with respect to the plan, of which you and the others had been officers or council members, in substance, that the representatives of the management had thought that their collective bargaining plan in force up to that time had been legal and proper, but with the decision of the Supreme Court which might or might not bring them within the operation of the Wagner Act and the approaching creation of a State Board, with jurisdiction, that they simply could not go on with it, any manner of financial support or bearing expenses of collective bargaining? A. I don't recall the first part of it, but that is what he repeated quite a few times

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*Arthur Currie Joy—For N.L.R.B.—Cross*

that day, under the spirit of the law, and also the Federal Law, that they could not continue.

Q. Do you recall him saying that, "We certainly thought that this set-up was legal, but now we find that it may not be"? A. I don't recall that.

S. M. 1019

Q. You don't recall him saying anything to that effect? A. No, I don't recall his discussion of the legality of the old employee representative association at all, merely the legality of the continuance of it, which he said then could not be continued.

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Q. Your work, I think you said, is entirely in the preparing of specifications? A. Well, not entirely, it is in the preparation of specifications and the studies of high voltage and low voltage cables, and preparation of tests, if necessary, to gain information about their characteristics, in other words, I am in one of the groups—in a group whose general responsibility is for the proper design and operation, installation, maintenance, etc., of cable systems, underground cable systems in the company.

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Q. And that cable system is a local distribution system in what boroughs? A. Manhattan, Bronx, Brooklyn and Queens.

Q. You mean, parts of each of those boroughs have underground lines? A. Well, we also handle overhead as far as the wires are concerned, but that is a comparatively small proportion of the work.

S. M. 1020

Q. You spoke of Mr. Hunter and Mr. Comly as sub-group leaders, or sub-group heads in your department?

A. That is correct.



Q. Did they have any authority, as you understand it, either to hire employees or to discharge them? A. No, I understand no one has that right except the personnel department or the president.

Q. Then you understand that none of these men whom you have testified about this morning in your bureau, has that authority? A. That is correct, none of them have the power to hire or fire.

Q. Do you know whether Mr. Hunter or Mr. Comly are members of the I.B.E.W.? A. So far as I know, they are not.

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Q. And you undertake to state that you know, or just that you don't know? A. I don't know that they are members.

Q. Do you know whether Mr. Butcher and Mr. Reimers and Mr. Kotchendorfer are members? A. So far as I know, they are not.

Q. Do you know one way or the other, Mr. Joy? Your answer is no? A. I do not know whether they are or are not.

Q. Mr. Thomas? A. Again I don't know. If I may

S. M. 1021

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add to that, Mr. Butcher stated to his men that he would, in effect, just love to join if he was only eligible.

Q. And from that you infer that under the constitution with the I.B.E.W., he is not eligible, and so is not a member? A. That's right.

Q. Do you know whether Mr. Hatcher and Mr. Comly were voting and participating members under what in your company was called the E.R.A.? A. They were not.

Q. They were not. A. Mr. Comly has just recently been transferred to us from Brooklyn, and I know nothing about his status there, and Mr. Hatcher—

Q. Then your answer applies to Mr. Hatcher? You don't know about Mr. Comly? A. That is correct.



2692

*Arthur Currie Joy—For N.L.R.B.—Cross*

Q. Now, you gave some testimony of what you said somebody told you about persons whom you characterized as the organizers of the I.B.E.W. being in the building at 4 Irving Place, and engaged in the solicitation of membership applications, and I think you said they had desk space in some place? A. I was told by Mr. Dudley Ward.

S. M. 1022

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Q. Are you able to state who those men were whom you referred to as organizers? A. No, I do not know whether he knew them or not. He did not give me any names at all.

Q. And you are not able to state whether they were or were not at that time employees of any of the companies of the system? A. I am not able to state that, no.

Q. You say you formed this independent gas and electric union on or about April 29th of this year? A. That is correct.

2694

Q. How many members, with paid-up dues, has that union? A. I don't know that that is relevant to this question, Judge Ransom.

Q. I think that may have to be determined by some one other than yourself.

Mr. Moscowitz: I think, Mr. Examiner, that the objection taken by the witness is well taken.

Trial Examiner Gates: What reasons do you have for not wanting to disclose that?

The Witness: As I understand it, this is a case against the company for having violated the Wagner Act, in having followed unfair labor practices. I do not see that the membership of the Independent Gas & Electric Union has anything to do with this case.

S. M. 1023

Judge Ransom: I submit that there is a question. There has been a claim here, unfoundedly made, that men have been laid off and discharged because they were members of labor organizations. The charge, of course, is not true, but it becomes certainly pertinent in that kind of proceeding. Now, let us see how many members of labor organizations there are in the company. Of course, there has been some reduction of force from time to time, and that undoubtedly included men who were formerly members of this or that labor organization.

2696

Men cannot be continued in the employ of the company because they are or because they are not members of labor organizations, but it is certainly pertinent on the issue tendered by the complaint here as to the number of employees there are, who were members of any labor organizations.

Mr. Moscovitz: Mr. Examiner, if I considered it pertinent from the government's point of view, I would ask this witness whether or not there have been membership in any particular amount, and I certainly do not think the fact that there are five or six persons who are named in the complaint as having been discharged as members of different labor organizations has anything to do with the question the Judge just asked Mr. Joy. I don't see any relevancy whatsoever, and I think that the objection as made by the witness was very well taken.

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S. M. 1024

Trial Examiner Gates: Will it serve the pur-

2698

*Arthur Currie Joy—For N.L.R.B.—Cross*

poses of the record so far as you are concerned, if it is conceded on the part of all, that there was a substantial number?

Judge Ransom: No, I do not think that would meet or fulfill the proof that we are entitled to make. After all, we did not—

Trial Examiner Gates: I sustain the objection.

Judge Ransom: Exception.

2699

Q. (By Mr. Ransom) You have not attended any meetings of Local B-829? A. I have not.

Q. You don't know whether, from your knowledge, whether or not or when an election of officers took place on the part of the members of that local? A. I don't know when, I do know that one took place, I was informed by a member of the local that such had taken place.

Mr. Moscovitz: Will you fix that date, do you know?

The Witness: No, I don't know the date.

2700

Q. (By Mr. Ransom) Well, it was some time shortly after these preliminary organizational steps of which you did have personal knowledge? A. That's correct.

Q. Well, do you say that probably some time early in May, soon after the first of May? A. Yes, that would be a close shot at it.

S. M. 1025

Judge Ransom: That's all.

Mr. Moscovitz: I have one or two questions, Mr. Examiner.

**REDIRECT EXAMINATION:**

Q. (By Mr. Moscovitz) At the time you were in attendance at the meeting at which Mr. Carlisle spoke, did Mr. Carlisle point out to you that the Wagner Labor Act had been passed in July of 1935? A. I don't recall whether he mentioned the date of its passage or not; he mentioned the upholding of the validity of it by the Supreme Court.

Q. And did he in a discussion of the company's subscription to the policy of the Federal Labor Act, tell you why financial contribution had not been withdrawn until April, 1937?

2702

Judge Ransom: I object to the question as it assumes an attitude of subscription to the policy of the Act, as to which there is no evidence, I think this witness testified, and certainly others have, that Mr. Carlisle's statement was that they did not believe that the Federal Act applied to these companies.

Trial Examiner Gates: He may answer the question.

Judge Ransom: Exception.

The Witness: What was the question?

2703

(Reporter repeated the last question.)

The Witness: I don't recall any such statement at all.

S. M. 1026

Q. (By Mr. Moscovitz) Mr. Carlisle told you the financial support was being withdrawn because for other reasons—withdraw that, please. Carlisle told you that financial support was being withdrawn because for the company to continue financial support would violate the

2704

*Arthur Currie Joy—For N.L.R.B.—Redirect*

spirit of the Federal Labor Act, isn't that so? A. That is correct.

Q. All right. A. He reiterated that several times and stated that he would not put himself or the corporation for one minute in the position of violating the spirit of the law, even though they could not violate the letter of it.

2705

Q. And did he explain to you why he waited until 1937 to comply with the spirit of the law when it had been passed in July of 1935? A. I don't recall that he did.

Q. All right. Now, you referred in your testimony this morning to a letter sent to Mr. Ganley in April, 1937, signed by Mr. Tracy? A. Yes, sir.

Q. As I recall your testimony, you stated that copies of the letter were given to the employees of the company? A. A number of copies were given to councilmen, and I believe a further number were posted on bulletin boards.

Q. And were they posted on bulletin boards of the company? A. Yes.

2706

S. M. 1027

Q. And is this a copy of that letter?

(Copy of the document was passed to witness.)

A. That seems to be a copy, yes, sir, as well as I can recall it.

Mr. Moscovitz: Mr. Examiner, I have a long distance telephone call which came in for me, I wonder if you would give me just a minute to rush down and take it.

Trial Examiner Gates: All right, we will have a short recess.

(Whereupon a short recess was taken.)

*Arthur Currie Joy—For N.L.R.B.—Redirect*

2707

**AFTER RECESS.**

Mr. Moscovitz: I offer this, Mr. Examiner.

Judge Ransom: I object to this purported letter of April 21, 1937, from Mr. Tracy to Mr. Ganley as in no way binding or probative, as against any of the respondents. Obviously, a communication between Mr. Tracy and any of the employees of the respondents is not binding upon the respondents.

Trial Examiner Gates: Admitted.

2708

Judge Ransom: Exception.

(Document referred to was received in evidence and marked Board's Exhibit 15, Witness Joy.)

Q. (By Mr. Moscovitz) This letter, Mr. Joy, is dated April 21, 1937? When did you see it on the bulletin

S. M. 1028

board?

Judge Ransom: Objected to as immaterial.

Trial Examiner Gates: Objection overruled.

2709

Judge Ransom: Exception.

A. I do not recall exactly: The letter was received on the 22nd, I believe. Mimeographed copies were made on that same day. Quite a large amount of them were distributed directly from the general council's office. I don't know how generally they were posted on the bulletin boards, but I did see some several days thereafter on the bulletin boards.

Q. (By Mr. Moscovitz) What bulletin boards? Where were the bulletin boards located? A. In the various halls and offices of the company.



2710

*Arthur Currie Joy—For N.L.R.B.—Redirect*

Q. Yes. And do you know who mimeographed these?

A. I presume it was done by the stenographic bureau of the company, at the request of the secretary of the general council.

Q. Is that the way the work had previously been done for the plan? A. Yes.

Q. And where is the stenographic force located that did that work? A. On the eleventh floor of the building at No. 4 Irving Place.

2711 S. M. 1029

Q. And you say these letters were distributed through the plan's office in that building? A. Yes.

Q. And that is the way literature used to be distributed under the plan? A. Well, about the only thing that was distributed generally were the minutes of the meeting.

Q. Is that the way it used to be distributed? A. And they were mimeographed by the stenographic bureau for the secretary of the general council and sent by the secretary to the various members of the general council.

2712 Q. Now, if you will look at this letter, and/I fer you to the third paragraph, you will see the following:

"It is understood and agreed between yourself and your committee representing your group of employees, together with the writer, that no change in the present officer or representative personnel of the council will be required by the I.B.E.W."

And then there is a proviso immediately after that, that the men, members of I.B.E.W. in good standing, will be in good standing until December, when the laws of the council specify an election. Does this reference to your committee refer to the persons named by you who had gone to see Mr. Tracy? A. I don't know

S. M. 1030

whether he was referring to the five people that went to him or whether he was referring to the entire general council, the statement is somewhat vague on that.

Q. But whether they were the five persons or the general council, they would also be first, too, under the plan, representing the workers for whom you, too, are responsible, is that right? A. Yes, that's right.

Q. Now, as a representative under the plan were you directly responsible for any group of employees?

A. I was a representative of the electrical engineering department employees.

Q. Did that mean that you represented 50? A. No, it was approximately 130.

Q. 130? A. Yes.

Q. And was that group of 130 represented on this committee when they went to see Mr. Tracy? A. It was not.

Q. And at the time that letter was distributed among the employees of the company, there had been no meeting of the I.B.E.W. local, is that right? A. There was actually no I.B.E.W. local at that time.

Q. There had been no meeting among the employees for any offices of the I.B.E.W.? A. Absolutely not.

S. M. 1031

Q. As I understand your testimony, it did not take place until May, 1937? A. That's right.

Q. Yes. A. I am not positive as to whether it was May or the latter part of April or just when it was, whether it was a week or two after the general council, they decided to accept a charter from the I.B.E.W.

Q. In any event it was after that date? A. Yes, sir.

Q. On the letter? A. Yes.

Mr. Moscovitz: That's all.

2716

*Arthur Currie Joy—For N.L.R.B.—Recross***RECROSS EXAMINATION:**

Q. (By Mr. Ransom) In this conference with Mr. Carlisle, when he made his appearance before the meeting of employees at 4 Irving Place, when his appearance was requested, did Mr. Carlisle, in answering the submitted questions, refer to the then recent decision of the Supreme Court of the United States as to the Wagner Act? A. He referred to it quite a number of times, in fact that was practically all that we heard.

2717

Q. Did he likewise say one or more times that he did not regard the Wagner Act as applicable to the company or these companies? A. That is right, he made

S. M. 1032

that statement in the beginning.

2718

Q. Do you know whether these expenses incurred in work for the general council under the operation of the plan, let's say the stenographic and mimeographing expenses and other expenses of the council in connection with elections and meetings, whether they were charged to some account that related them to the operation of the collective bargaining plan? A. I don't know. I know that some individuals have councilmen—some individual councilmen have stated that when they were attending council meetings that they charged their time to different jobs than that that was ordinarily used, I believe, I never received such word myself.

Q. You don't know if they were charged to E.R.P.?

A. No, sir.

Q. Or E.R.A. or something? A. No, I know nothing about the charges or the cost of the organization whatsoever.

Judge Ransom: That is all, Mr. Joy.

Mr. Moscovitz: That is all.

*Arthur Currie Joy—For N.L.R.B.—Recross*

2719

Trial Examiner Gates: I have one or two questions.

*Examination by Trial Examiner:*

Q. (By Trial Examiner Gates) Do you belong to any particular local of the Independent Union? A. There are no locals, it is one organization; for the entire

S. M. 1033

system.

2720

Q. This hearing received two petitions for intervention, one by the Independent Gas and Electric Workers of Westchester County, is that in any way connected with your organization? A. They, I believe, have decided to join in with us and make one organization.

Q. But not separately? A. No.

Q. At the time the petition was filed, they might have been an entirely separate and independent organization, were they at one time? A. As to that I can hardly state, our men went up there to help them organize at night and we understand from the beginning that they were going to be affiliated with the organization.

2721

Q. Do you refer to various benefits for the employees which you have carried on under the plan, are those still being carried on? A. Well, welfare measures?

Q. That's right? A. So far as I know they are, I have received no word of any change.

Q. Did employees pay dues or anything like that for that purpose? A. Well, it was a separate organization, the Employees Association, an Association of employees

S. M. 1034

that existed in the New York Edison Company which

2722

*Arthur Currie Joy—For N.L.R.B.—Recross*

was just recently merged with the Mutual Aid Society, both of those organizations have been purely welfare organizations.

Q. Was their work in any way related to the old plan? A. Absolutely not.

Q. And you say—can you state how many individuals were on the general council? A. Well, the general council of the New York Edison Company, there were at least 28 at the time of its break up, I don't know how many there were on the general council of the remainder of the system companies.

2723

Q. How many on all of the Consolidated Edison, do you know? A. Well, I don't know, there were two, you see.

Q. You maintained your identity more or less as the New York Edison Group? A. Yes, we did, the two were never merged.

Q. At the time of this letter from Mr. Tracy, Board's exhibit #15, referred to in the meeting, was there also a similar letter from somebody representing the United Electrical and Radio Workers or the C.I.O.? A. There was such a letter.

2724

Q. Was that posted on the bulletin board? A. I don't recall whether it was or not, excepting possibly there may have been one or two instances. Whether it was widespread or not, I don't know.

S. M. 1035

Q. Was it mimeographed, do you know? A. I think it was, I am not positive of that.

Q. Did it have any distribution at all? A. I believe, I cannot be absolutely sure—I believe that was mimeographed and was distributed out of the general council office, along with the I.B.E.W. letter.

Q. That is all.

**RECROSS EXAMINATION:**

Q. (By Judge Ransom) Mr. Joy, the Examiner just asked you about various of these provisions for the benefit of employees along lines of what are sometimes classed as employees welfare activities. Perhaps we can clear the record up a little about that. In the first place, how much vacation do you get a year with pay?

A. Two weeks.

Q. And are you a weekly or a monthly employee?

A. Weekly.

Q. You are a weekly? A. Yes.

Q. Now, with respect to pay and provisions in the event of sickness, is there a certain amount of time and medical attention and the like that is paid for directly by the company? A. So far as I know, there is. I have seen no statement of any change. There has been many rumors around that the changes have been made.

2726

**S. M. 1036**

Q. It has been the policy and the practice, let us say, leaving out any question of the present and recent action, that in the event an employee was ill, there was, for a period of time, an allowance of pay and medical attendance, and if necessary hospital care directly provided by the company? A. Part was provided by the company and part was provided jointly by the company and the mutual aid and employees association.

2727

Q. I am asking you now, before the Mutual Aid Arrangement comes in, which is a contributory arrangement, you say, is there a period of time before that where the allowance of pay and the medical care and hospital care is needed, and the like, are maintained solely at company expense without employee contribution? A. Not that I know of.



2728

*Arthur Currie Joy—For N.L.R.B.—Recross*

Q. You don't know about that? A. No.

Q. But in any event you know that in the event of illness, there is a time when the Mutual Aid Association comes in and makes provision? A. We have a sick benefit fund.

Q. And do you know in what ratio the employees and the company contributed to those funds? A. I believe it is supposed to be 50-50.

S. M. 1037

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Q. That is your understanding of the matter? A. Yes.

Q. Now, is there provided for the benefit of employees services of dentists and oculists? A. Dentists, I believe, are provided for jointly by the company and by the sick benefit funds which are paid for jointly by the employees and the company.

Q. Do you know anything about oculists? A. I don't know anything about the arrangement for oculists.

Q. Now, does the company provide for each employee certain group insurance? A. Yes.

2730

Q. Are you sufficiently familiar with the basis of that to state what it is? A. That has apparently been different in the different companies.

Q. I am asking you now as to Consolidated Edison. There has been some variance between the companies in that respect? A. Yes, the Consolidated Edison, I believe, each member of what is now the Mutual Aid Society receives an insurance policy for \$500.00, which is paid for by his membership fee in the Mutual Aid Society, and, in addition, may take out what is known as additional insurance, which is issued in blocks of \$500.00 each, so that a total amount of insurance approximately equals the actual salary.

S. M. 1038

Q. Do you know in what ratios the company and the employee can contribute to the cost of additional insurance? A. Again, I understand it is 50 percent each.

Q. Now, has there been in effect for some time what is called a retirement plan for the payment of pensions or annuities to employees upon retirement after reaching a certain age and after certain periods of service?

A. There is what is known as a provisional retirement plan.

Q. Yes? A. Which was started possibly two years ago but for which the company has no obligation.

2732

Q. You mean it is a non-contributory plan? A. That is correct.

Q. And it is a plan for which the company, do you know, as has been testified here, has set up some millions of dollars of reserve? A. I heard statements as to the amount appropriated to that reserve; I know nothing about it directly.

Q. And the continuance of that plan is within the managerial power and discretion of the company. That is, it is not a contractual obligation? A. Absolutely is not.

2733

Q. Do you know whether—I take it you do not know whether the continuance of that plan and these other welfare benefits are provided as a contractual matter under the bargaining agreement with the I.B.E.W.? A.

S. M. 1039

I have seen only one of those agreements and that one stated that the company, which was the Brooklyn Edison Company, has stated its intention to continue the provisional retirement plan, but without any obligation to do so, and also agreed to continue the other welfare measures substantially as at present.

2734

*Arthur Currie Joy—For N.L.R.B.—Recross*

Q. Do you know whether the company also complies with the United States Social Security Act, the Federal Act? A. So far as I know, they deduct it from my pay.

Q. And is this independent Gas and Electric Union for which you were testifying, the one in behalf of which Mr. Redfield made the application for intervention here? A. Yes.

2735

Q. Were you one of the employees who tried to intervene in the Federal Court this spring in Mr. Redfield's suit to contest as unconstitutional the United States Social Security Act?

Mr. Moscovitz: I object, Mr. Examiner, I don't see that this witness' participation in any other proceeding is at all relevant in this proceeding.

Judge Ransom: Well, to use Mr. Moscovitz's expansive phrase, I would like to show something of the background and the point of view of the employees who were making these accusations.

S. M. 1049

2736

Mr. Moscovitz: Well, I don't suppose even I am interested in an employee's point of view on Social Security legislation in this kind of a hearing.

Trial Examiner Gates: He may answer.

The Witness: I was not. I never heard of Mr. Redfield until after the organization of this unit.

Q. (By Judge Ransom) Did you hear of the suit which was brought by Mr. Redfield to enjoin and restrain the company from complying with the United States Security Act? A. I said that I had never heard of Mr. Redfield, I heard of a suit that was brought against the company.

Q. For that purpose? A. For that purpose.

Q. Did you know of any of the employees who tried to intervene in that suit? A. I did not.

Mr. Moscovitz: I object, Mr. Examiner, I don't suppose that Mr. Redfield is a party to this proceeding.

Trial Examiner Gates: But there was no question before the witness.

Mr. Moscovitz: I thought there was.

Trial Examiner Gates: He answered it.

Mr. Moscovitz: I move then that the witness' answer be stricken.

Judge Ransom: He said he didn't know.

#### S. M. 1041

Trial Examiner Gates: It may stand.

Mr. Moscovitz: Is that what he said?

Judge Ransom: Yes.

Mr. Moscovitz: All right.

Judge Ransom: That is all, Mr. Joy, thank you very much.

Q. (By Trial Examiner Gates) Were these several types of benefits which you mentioned on your cross examination ones which the plan or the general council participated in, the events leading to the establishment of those benefits? A. That is a very broad question. I would say that some of them were established through the efforts of the general council and some were not.

Q. Did you state on your previous testimony that Mr. Carlisle said that these several benefits would not be subject to bargaining with the I.B.E.W.? A. Will you repeat that?

(Reporter repeated the last question.)

A. I don't think I said any such thing as that, if I

2740

*Arthur Currie Joy—For N.L.R.B.—Recross*

did I was very much in error. Mr. Carlisle said that it was the desire of the company to continue the benefits, but he did not say that they would not be negotiated or discussed with the I.B.E.W.

Q. Did he say anything about them in connection with the negotiations that they would be the subject of negotiation? A. Well, the question was put to him.

S. M. 1042

2741

Q. Apparently I misunderstood your testimony. A. The question, as I recall it, that was put to him, was to the effect that—"Would the benefit we had be abolished?" And his reply was to the effect that it was the hope of the company to continue all the present benefits.

Q. (By Judge Ransom) The question that was put to him was as to the truth of the rumors which had been in circulation that vacations, sick pay and other welfare measures were to be abolished, is that correct? A. Approximately, yes.

2742

Q. And Mr. Carlisle said that, I think you previously testified that he said, "I have said on every occasion that the matters come up and that it is the desire of the company to continue those provisions as is." Is that correct? A. That is approximately correct.

Judge Ransom: Have you anything further? I have just one or two questions further on that same matter.

Trial Examiner Gates: Proceed.

Q. (By Judge Ransom) Were you present at the meeting between representatives of the management, that is, Mr. Carlisle and others, and the chairman, at least the chairman of the general council of the different companies, somewhere around December 22 or 23, 1936? A. I was not.



Q. Was there reported back to you and your council

S. M. 1043

following that meeting what was said and what took place at that meeting regarding the provision of an additional reserve for the retirement plan? A. Practically all I know about that meeting is the formal statement that Mr. Carlisle issued, which was reproduced and contributed around the company. As I recall it, that statement did not say, or it said something about \$2.00 additional being appropriated to the retirement fund.

2744

Q. For the benefit of the employees? A. I don't know about that.

Q. What I mean is this, in the public— A. It was distinguished from the public benefit, that is—

Q. Well, in the public utility business sometimes we refer to retirement as property, this was a provisional retirement plan for employees superannuated, retired or disabled. A. I don't recall the statement mentioned that specifically, but I assume that it did; that was what was meant.

Q. Well, do you know whether your council or any of the other councils had been taking up with the management of their respective companies the matter of further provision for the retirement and disability payments under that plan? A. I know the general council of the New York Edison Company had been negotiating at various times with management, but I understand others in the council had also, I don't know that definitely, the establishment of a contractual pension plan

2745

S. M. 1044

in which the employee would have a guarantee as to what he was going to get.



2746

*Arthur Currie Joy—For N.I.R.B.—Recross*

Q. And do you also know whether any of them had been negotiating or making recommendations as to the size, as to the adequacy, of the reserves to provide for the retirement and disability payments? A. As to that, I don't know.

2747

Q. You refer to a statement, a provision which you had seen, you said I think in the Brooklyn Edison agreement at some stage; I call your attention to exhibit B-14 for identification, which is the agreement effective June 15, 1937, between the Consolidated Edison Company and Local Union B-829, paragraph or article 6 thereof, paragraph 8, and I ask if this is the provision to which you refer:

2748

"The Edison Company will continue in force for the duration of this agreement but without commitment or liability thereafter substantially its present system and provisions for the welfare of the employees, including the Green Mountain Lakes Farm, Inc., the present medical services, the company's sickness allowance, and all mutual aid benefits, the Savings and Loan Association and the allowances for jury duty, and military duty and group insurance. The Edison Company will continue to comply with the United States Social Security Act while this agreement is in effect unless the Act in meanwhile is adjudged to be invalid or inapplicable to such

S. M. 1045

an employer. The Edison Company further states but without modifying the voluntary non-obligatory character of the provisional retirement plan for employees, its present intention to continue for the termination of this contract its said provisional retirement plan for employees as now maintained." A. That sounds very approximately like the section I read in the Brooklyn contract.

Q. After this meeting on April 22nd, to which Mr. Carlisle was brought by your committee, do you know whether you and any others, well, let's take at first, as to you—did you report to the employees in your division or bureau on what had been said by Mr. Carlisle on these various matters that came up? A. As I testified before, in my own particular division, the men gathered in one corner of the room at lunch time and after five o'clock and in other bureaus in my department the bureau representatives were given the representation and I don't know how they distributed it.

2750

Q. But in any event you reported to your employees in your division? A. Yes, sir.

Q. Directly? A. Yes.

Q. And orally? A. That's right.

S. M. 1046

Q. And in other divisions of your bureau, the various people were given the information likewise to pass it on themselves to the employees in those other divisions? A. I am speaking for my own department now.

Q. For your own department or your own bureau. Were you a department representative? A. Yes.

2751

Q. Or a bureau representative? A. Both.

Q. Then, speaking for your own department and bureau, that was the procedure which you followed with respect to bringing back to the employees what Mr. Carlisle had said on these different points? A. That's right. Some of the other bureau representatives were present at the meetings and there was no need for me to tell them. Others, I passed the word verbally to.

Q. That is all.

Q. (By Mr. Moscovitz) You testified that Mr. Tracy's letter which was addressed to Mr. Ganley had been issued through the general council's office at No. 4 Irving Place? A. Correct.

2752

*Arthur Currie Joy—For N.L.R.B.—Recross*

Q. And you also testified that you had seen it on various bulletin boards on company property in certain locations? A. I saw it on a few, I don't know how many.

S. M. 1047

Q. All right, now, did you also see mimeographed letters from the C.I.O. on bulletin boards? A. As I stated before, I think there were some of those.

2753

Q. Did you see them? A. I mean, I think I saw them on some of the bulletin boards. I am not positive of the fact.

Q. So you don't know, is that it? A. No, I don't know definitely.

Q. Well, do you have any recollection of what any of those things contained? A. Well—as to what the contents of the letter was?

Q. The C.I.O. letter? A. Well, that was a letter from, I believe, Mr. Julius Emsback.

Q. To whom? A. To Mr. Ganley.

2754

Q. Do you recall what it contained? A. It contained an offer of a charter to the general council or to the employees, I am not positive that it was to the general council, to the employees of a local for each company, the locals to elect officers within one month's time, I believe, under standard United Electrical and Radio Workers procedure.

Q. Yes. And did you see that letter about the same time that you saw the letter from Mr. Tracy? A. They were both received at the same time.

S. M. 1048

Q. Both received by Mr. Ganley at the same time? A. Yes.

Q. You know, as a fact, that Mr. Ganley did receive two letters, one from Mr. Wersing and one from Mr.

*Arthur Currie Joy—For N.L.R.B.—Recross*

2755

Tracy at the same time. Is that right? A. It was not from Mr. Wersing, it was from Mr. Emsback.

Q. Yes, Mr. Emsback. Then you do know as a fact that the Tracy letter did appear on the bulletin boards? A. Yes.

Q. But you don't know whether or not the Emsback letter appeared? A. I am not positive but I think it did in some cases.

Q. In those cases where you think it appeared, where did you think it appeared, in what location? A. I believe that there was one in the glass enclosed bulletin board in my own bureau office.

2756

Q. Where is that? A. 1350-S.

Judge Ransom: That is room 1350-S?

The Witness: Yes.

Q. (By Mr. Moscovitz) Where else? A. I also have a recollection that there was one on the bulletin board in the hall on the 13th floor.

Q. Yes. Where else? A. They are the only two

S. M. 1049

that I know of definitely, that I have a definite recollection of, rather.

2757

Q. Now, this glass enclosed bulletin board in 1350-S, is that a bulletin board which can be opened by any employee? A. It so happens that that particular one can. It was not locked.

Q. It can, but are the others locked? A. The others are locked.

Judge Ransom: You mean the others that you know about?

The Witness: Yes, as I know of.

Q. (By Mr. Moscovitz) The others are closed, so far as you know? A. Yes.

2758

*Arthur Currie Joy—For N.L.R.B.—Recross*

Q. But this one was unlocked? A. Yes.

Q. What kind of a bulletin board is it that is in the hall on the 13th floor? A. I think it is a glass enclosed one. I am not positive of that, but I believe most of them are.

Q. Was that one locked or unlocked? A. I don't know.

Q. And who has the key to these bulletin boards? A. I don't know that.

Q. That's all.

2759

Trial Examiner Gates: Anything further of the witness?

S. M. 1050

Q. (By Judge Ransom) You "don't know that this letter from the C.I.O. was mimeographed and was distributed at or about the same time Mr. Tracy's letter was distributed? A. I believe so.

Q. And do you recall whether the letter from the C.I.O. was read at this meeting on the afternoon of April 22nd, when, I think you said, what was it, 200 employees, who had been former council members and the like were present? A. I believe both letters were read at that time.

2760

Q. Was this the first C.I.O. literature you had seen around the building? A. Literature?

Q. Yes. A. No, I wouldn't say that. Literature has been handed out of the doors of the building very frequently.

Q. C.I.O. literature has been around there for some time, hasn't it? A. It could not have been there so very long because the local C.I.O. group I believe had just shortly before broken off relations with the I.B.E.W. and had affiliated with the C.I.O.

Q. By that you mean several weeks or months? A.

*Robert McCormick—For N.L.R.B.—Direct*

2761

I would say comparatively few weeks. I don't know exactly how many, I wasn't following it.

Q. That's all.

S. M. 1051

Q. (By Mr. Moscovitz) You never saw a foreman or a supervisory employee distributing C.I.O. application blanks; did you? A. No, I did not.

(Witness excused.)

2762

ROBERT McCORMICK, called as a witness for the National Labor Relations Board, being first duly sworn, testified as follows:

*Direct Examination:*

Q. (By Mr. Moscovitz) Where do you live, Mr. McCormick? A. 533 73rd Street, Maspeth.

Q. By whom are you employed? A. The New York Edison Company.

Q. Where at? A. No. 4 Irving Place.

Q. What do you do? A. I think my title is receipt clerk.

2763

Q. When did you get that title? A. Well, just since the physical merger of the New York Edison with the Consolidated Edison.

Q. And how long have you worked for the New York Edison? A. Since June 28, 1929.

Q. You are still with the New York Edison? A. Yes.

Q. Were you a member of the employee representation plan? A. I was.

S. M. 1052

Q. Were you an officer or councilman? A. No.



2764

*Robert McCormick—For N.L.R.B.—Direct*

Q. Just a member? A. Yes.

Q. Did you became a member of any labor organization after that? A. I did, I joined the C.I.O.

Q. And were you a member of any labor organization before that? A. I was interested in another labor organization but I was not a member.

Q. I see, and what was that organization? A. That was the independent.

2765

Q. Is that the organization that the gentleman who preceded you on the witness stand is a member of? A. That's the same organization.

Q. When did you become a member of the C.I.O.? A. Yesterday.

Q. What local do you belong to? A. Local 1212.

Q. And before yesterday when you became a member of the C.I.O. you weren't active in any C.I.O. activities, were you? A. No.

Q. You are just a member? A. That's right.

S. M. 1053

Q. In what location within this building are you employed, do you work? A. You mean what room?

2766

Q. Yes. A. Well, I work in room 938.

Q. With whom do you work? A. Well, I am in the commercial relations department.

Q. What is that department, what do they do? A. Well, I don't know exactly all the functions of the department, I know what we do.

Q. Well, what do you do? A. We handle incoming bills and we take the money from the collectors at 4 Irving Place and then we prove the deposits from all the various branch offices.

Q. Who is your boss? A. My immediate?

Q. Boss? A. That is Mr. Rippitt.

Judge Ransom: What did you say he was?

The Witness: Assistant clerk in charge.

*Robert McCormick—For N.L.R.B.—Direct*

2767

Q. Assistant clerk in charge? A. Yes.

Q. (By Mr. Moscovitz) How many men does he have charge of? A. Well, he has 26 men.

S. M. 1054

Q. And they are directly responsible to him? A. Yes.

Q. Who is his boss? A. Well, his boss is Mr. McMannus, I believe his initials are I. J.

Q. What is his title? A. He is a supervisor.

Q. And did Mr. Pippitt ever ask you to become a member of any labor organization? A. Well, yes, on April 23rd, he asked me.

2768

Q. Is that 1937? A. 1937.

Q. Yes. A. He handed me an application card.

Q. Is that card the same as Board's exhibit #6?

(Board's exhibit #6 was passed to the witness.)

A. That is the same card.

Judge Ransom: May I ask from what the witness is reading?

Mr. Moscovitz: What are you reading from?

2769

A. I wanted to make—

Judge Ransom: What is that?

The Witness: These are just notes that I have.

Q. (By Mr. Ransom) Were they made by you? A. Yes.

S. M. 1055

Q. Typed by you? A. That is correct.

Q. (By Mr. Moscovitz) Go ahead. A. Well, Mr. Pippitt came up to me on April 23rd.

2770 *Robert McCormick—For N.L.R.B.—Direct*

Q. Were you at work all the time? A. Yes, I was at work.

Q. He asked you what? A. He asked me to sign an application card for the I.B.E.W. so I said that I did not believe that in signing that card I would have the opportunity to take advantage of my free choice in unions. I thought that he should hand me the card of the other two unions in the field, if it were to be the proper thing, so I said that I would think it over.

Q. Is that all you had to say to him at that time?

2771 A. That's all that I said to him at that time.

Q. Now, at that time were you interested in some other labor organization? A. At that time I was interested in another labor organization.

Q. Is that the independent organization? A. Yes, sir.

Q. That's the independent gas and Electric Union? A. That's right, yes, sir.

Q. Well, what happened the next day? A. Well, the next day, Mr. W. J. Wiscowsky—

Q. Who is he? A. Well, he works in the bookkeep-

2772 S. M. 1056

ing, I don't know, the commercial relations department, he was called in by a Mr. Smith who was assistant cashier at that time, because Mr. Pippitt could not explain satisfactorily the nature of the I.B.E.W.

Q. (By Mr. Moscovitz) Well, was Mr. Pippitt in the room? A. Mr. Pippitt was in the room at that time.

Q. Well, let's get the course of events when you went to work the next day, did you go right to Mr. Pippitt? A. I see. When I went to work the next day I was called into conference, well, I was called in to hear Mr. Wiscowsky speak.

Q. Who called you? A. Well, I simply came into the room from downstairs when my work was finished there, but Mr. Wiscowsky had been called, because Mr. Pippitt could not explain satisfactorily the nature of the I.B.E.W. to the group.

Judge Ransom: I move to strike out the witness' conclusion as not binding on the respondents.

Trial Examiner Gates: It may stand but it seems to me a little more detail is needed to make it of any importance. Q

Q. (By Mr. Moscovitz) Now, when you finished your work and you went downstairs did you say, or upstairs? A. Well, shall I explain just what I did, just how I came to be there?

S. M. 1057

Q. Yes. A. Well, at that time I came in to work at two o'clock.

Q. In the afternoon? A. In the afternoon, immediately went down to the collector's room until all the collectors had turned in and that deposit had been proved. The deposit was usually proved around five-thirty. So at five-fifty I came up and Mr. Wiscowsky was already there talking to a group of men.

Q. Now, were they a group of men from your own department? A. Yes, and the names of some of those men are Price, Curley, Rosenthal, Rooney, Goebel and myself and others, they are all working in that section.

Q. And was Mr. Pippett there? A. Mr. Pippett was there and the reason Mr. Wiscowsky had been called in—

Q. How do you know why he was called it? A. Well, the only reason I know why he was called in is that

2776

*Robert McCormick—For N.L.R.B.—Direct*

Mr. Pippett was under obligation to the assistant cashier to fill a quota.

Q. How do you know that? A. Because on the second evening, that is the 23rd, I believe.

Q. Of April? A. Of April, I saw Mr. Pippett making out a memorandum sheet for Mrs. Smith, the assistant cashier, and in one column were tabulated the names of those who had not signed the application cards for

S. M. 1058

2777

the A.F.ofL. and in another column were the names of those who had signed cards and the whole procedure was distasteful to Mr. Pippett and he—

Judge Ransom: I move to strike out the witness' written argument, whoever wrote it, as purely a matter of argument and conclusion.

Trial Examiner Gates: It may be stricken. I think we ought to get in the whole procedure.

The Witness: Well, you see he since told me he was under pressure from inside.

2778

Q. (By Mr. Moscovitz) Now, you saw this memorandum being written? A. Yes, I saw a memorandum being written.

Q. By Mr. Pippett? A. Yes, that's right.

Q. And you have already told us what you saw, the names? A. Yes.

Q. Did you talk with Mr. Pippett about it? A. Yes, I talked to him.

Q. At that time? A. Not at that time, but subsequently.

Q. How many days later or when? A. After the attempt to procure these signatures on the application cards, Mr. Pippett did not have anything further to do with it.

S. M. 1059

Q. Well, what attempt are you referring to now, what day, the 22nd and the 23rd of April? A. Well, now, yes, the 22nd and the 23rd.

Q. Well, are you referring first to the time when he spoke with you and you told him you wanted to think it over? A. That was on the 22nd.

Q. All right, then on the 23rd, Mr. Wiscowsky—you walked into Mr. Wiscowsky? A. That's right.

Q. Who was with Mr. Pippett and a group of men? A. Yes.

2780

Q. Now, tell us—

Judge Ransom: Can you fix the time of day that was?

The Witness: 5:30.

Q. (By Mr. Moscovitz) 5:30? A. Yes.

Q. Was that after working hours? A. My hours were two to ten.

Q. Is that the same as the hours of the other men? A. Yes, all the men there at that time were on their working hours.

Q. All right, now, when you walked into that meeting, what was taking place? A. Mr. Wiscowsky was standing in the middle of this aforementioned group, and he was explaining to them why they should join

2781

S. M. 1060

the A.F.ofL. and he gave certain reasons which I put down on this sheet of paper. Is it alright to read them off?

Q. Yes, if Mr. Ransom doesn't have any objections.

Judge Ransom: I haven't any objections as yet.



2782

*Robert McCormick—For N.L.R.B.—Direct*

A. He said that it was advisable to join the American Federation of Labor immediately before the company closed shop with the A.F.of L. In that case the initiation fee would go up to \$100.00 or more.

He said that the company has always treated its employees well, therefore the employees should treat the company in the same way by joining the A.F.of L.

Since the majority of the employees had joined this union, the I.B.E.W. was the sole bargaining agents for all.

2783

Q. When did you write this? A. This is a copy of the affidavit I submitted.

Q. I see. That is the information then which you gave to the Labor Board; is that it? A. That's right, yes.

Q. Now, did Mr. Wiscowsky make any further statement at that time as far as you can recall? A. Well, I tried to recall what he had to say. I wrote these three very definite things down. I do not wish to say he said anything more because I don't recall it definitely.

S. M. 1061

2784

Q. I see. And did you find out at that time why Mr. Wiscowsky was there making this speech? A. Well, Mr. Pippett failed to get enough signatures to satisfy himself and—

Judge Ransom: I move to strike out the witness' statement. It may be difficult for the witness to tell what goes on in his own mind without referring to an affidavit.

Trial Examiner Gates: It may be stricken.

Q. At any rate, Mr. Wiscowsky was there, which is an indication that—

*Robert McCormick—For N.L.R.B.—Direct*

2785

Judge Ransom: I move to strike out what is an indication of. It is immaterial.

Trial Examiner Gates: It may be stricken. I suggest that you proceed with questions and answers.

A. You asked me why Mr. Wiscowsky was there; didn't you?

Q. (By Mr. Moscovitz) That's right. A. Well, it was evident from what he said that he was there to persuade us to join the I.B.E.W.

Q. Now, do you recall what else happened at that time? A. At that 5:30 meeting?

2786

Q. Yes. A. Yes. After the meeting, Mr. Pippett distributed cards for the people to sign that were listening to Mr. Wiscowsky. Some of them signed and some of them did not.

Q. Did anyone else distribute cards at that time?

**S. M. 1062**

A. No, Mr. Pippett was distributing all the cards that were distributed.

Q. Did Mr. Pippett tell you or the group why Mr. Wiscowsky was there, where he had come from? A. No, I wasn't present at the time Mr. Wiscowsky was summoned, so I couldn't say.

2787

Q. Do you know where he comes from? A. Yes, he works on the 10th floor.

Q. What is his job? A. He is a supervisor, I believe, of cash posters.

Q. What is cash posters? A. Well, he applies bill receipts to the books.

Q. Do you know how many persons he has working under him? A. No, I have no idea because I don't have any dealings with them.

2788

*Robert McCormick—For N.L.R.B.—Direct*

Q. I see. I interrupted you. You had not finished your statement, had you? A. I simply said I didn't have any dealings with that part of the business.

Q. I see. Now, was it reported to you why Mr. Wiscowsky was there? A. I heard from the other fellows at the meeting that he was called because Mr. Pippett was dissatisfied with what he had done.

Judge Ransom: I move to strike out the statement.

2789 S. M. 1063

Trial Examiner Gates: It may stand.

Judge Ransom: Exception. It is wholly hearsay.

Q. (By Mr. Moscovitz) Who are these other fellows? A. I had their names here. I read them off before. Shall I read them off again?

Q. Are they the same fellows? A. Yes.

Q. Is that about the part of the meeting that you missed? A. When I came up I heard substantially what Mr. Wiscowsky has to say.

2790 Q. But this statement by the men to you that Mr. Wiscowsky was called in because Mr. Pippett had not made his quota? A. Yes.

Q. Was that a statement that was made by Mr. Pippett to the men? A. It wasn't the statement made by Mr. Pippett to the men. It was a statement made by the men to me.

Q. Not—were they quoting someone when they made that statement to you?

Judge Ransom: Object to as leading and improper. If evidence could be made against the respondents that way, I, at least, respectfully protest.

*Robert McCormick—For N.L.R.B.—Direct*

2791

Trial Examiner Gates: He may answer.

Judge Ransom: Exception.

The Witness: Well, I wish you would repeat that question.

S. M. 1064

(Question read.)

Judge Ransom: May the record show that the witness asked to have the question repeated?

A. They saw the process Mr. Pippett went through in procuring Mr. Wiscowsky. He applied to Mr. Smith who sent Mr. Wiscowsky.

2792

Q. (By Mr. Moscovitz) Now, was it the same evening that you saw Mr. Pippett making out the memorandum sheet for Mr. Smith? A. That was on the 23rd of February.

Q. That would be the next day? A. That was the same evening as the speech, yes.

Q. That all happened on the same day then?

Trial Examiner Gates: The witness said February.

The Witness: I am sorry, April.

2793

Q. (By Mr. Moscovitz) April? A. Yes.

Q. 1937? A. 1937.

Q. Right. Did you sign the card at the meeting addressed by Mr. Wiscowsky? A. No, I did not.

Q. Were you approached after that meeting again to sign a card? A. Yes, Mr. Pippett did approach me on the following evening, on the 24th.

S. M. 1065

Q. While you were at work? A. I am not quite sure about that date, but it was the next day.

2794

*Robert McCormick—For N.L.R.B.—Direct*

Q. All right, was this while you were at work? A. As soon as I had come in to work, he approached me and asked me if I wished to sign and I said no.

Q. Just what did he say to you? A. Well, he simply came up to see me and said, "McCormick, are you going to sign now or not?"

Q. What did you say? A. I said I didn't think I had had sufficient time to determine which union I should join, therefore I wouldn't sign it.

2795 Q. Did he approach you again after that? A. No, nothing further was heard.

Q. Did you know whether or not Mr. Pippett continued that activity with other employees after he last spoke with you? A. I know that he did not.

Q. He did not? A. No.

Q. How do you know that? A. Well, I am in a position to watch his activity in the office.

Q. Did you talk with Mr. Pippett further about it? A. Yes, I did. Several days later, say five days later, I did.

S. M. 1066

2796

Q. And what was your discussion with him about it? A. Mr. Pippett said that he didn't like what he had to do.

Q. Yes. A. And that as far as he was concerned, he was glad that the business was over.

Q. Is that all? A. No, that is substantially what he had to say.

Q. What did you have to say on that? A. Why, I didn't have very much to say on it.

Q. Were you glad it was over too? A. I didn't consider it over at all. I considered it just beginning.

Q. Why do you say that?

*Robert McCormick—For N.L.R.B.—Cross*

2797

Judge Ransom: Objected to as immaterial.  
Trial Examiner Gates: He may answer.

A. Well, I knew that the union question was yet to be settled by referendum if possible.

Q. It had not been settled in that way yet, has it?

A. It has not been settled in that way yet.

Q. That's all.

### CROSS EXAMINATION:

Q. (By Judge Ransom) May I see this interesting paper? 2798

(Witness hands counsel paper.)

When did you prepare this, or when was it prepared?

A. Well, I don't quite recall the date, but I did submit that to the National Labor Relations Board.

S. M. 1067

Q. You don't recall what date? A. No, I don't recall what date.

Q. Can you give me any idea when you prepared it?

A. I prepared it the night before I submitted it.

Q. Well, when did you submit it? A. I don't recall. 2799

Q. Well, when did you submit it? A. I don't recall.

Q. Haven't you any idea? A. No, I have not.

Q. Was it in June or in May? A. It was in May.

Q. Where did you prepare it? A. I prepared it because—

Q. Where? A. Oh, where? In my home.

Q. Who was there? A. I was alone.

Q. No one else? A. No.

Q. Whom did you talk to about making the affidavit?

A. I didn't talk to anyone. I saw the form of an affidavit in a book and decided to write this affidavit in the first person instead of the third.



2800

*Robert McCormick—For N.L.R.B.—Cross*

S. M. 1068

Q. No person had spoken to you about making any affidavit? A. Well, I realized that—

Q. Had any person spoken to you about making an affidavit? A. Naturally, several people had spoken to me.

Q. Who had spoken to you about making an affidavit? A. Mr. Crowell of the independent.

Q. Do you know his first name? A. Mr. Harry Crowell.

2801

Q. Anyone else? A. Well, as far as I am concerned, no.

Q. What do you mean as far as you are concerned? A. Well, Mr. Crowell's suggestion to me about the affidavit was enough. It was the determining factor in my preparing it.

Q. You said two or three people had spoken to you about it. Who were the others? A. Certain members of the independent union.

Q. Who? A. Mr. Schacht. I don't know his first name.

Q. Who else? A. Mr. Gideon.

2802

Q. Who else? A. Mr. Voosen, V-o-o-s-e-n.

Q. What did you do with the affidavit when you say you prepared it? A. I took it to Mr. Moscovitz.

S. M. 1069

Q. You took it to him personally? A. Yes.

Q. At the National Labor Relations Board? A. Yes.

Q. Who suggested that you take it to him? A. Mr. Crowell.

Q. And can you fix at all the date when that took place? A. Yes, it was on June 1st, Tuesday, June 1st.

Q. How soon was that after you prepared it? A. I prepared it the night before.

*Robert McCormick—For N.L.R.B.—Cross*

2803

Q. Now, you are a receipt clerk? A. Yes, sir.

Q. That is your payroll title? A. Yes.

Q. Your duties relate solely to incoming bills that have been sent to consumers and the money collected on them? A. That's right.

Q. And you check these receipts and check the deposits of the money in the bank account? A. That's right.

Q. And that is your sole duty in that respect? A. Yes, that's all I do.

Q. Now, you say Mr. Pippitt is an assistant clerk in charge of the receipt clerks? A. That's right.

2804

S. M. 1070

Q. What? A. I think the section is called receipt proofs and records.

Q. Receipts proof and records? A. Yes.

Q. He is an assistant clerk? A. Yes.

Q. Is that his payroll title? A. Yes, assistant clerk.

Q. Is that right? A. Yes.

Q. There are about 26 men in that department? A. About 26.

Q. And they work under Pippett's direction? A. Yes, Mr. Pippett of course is under Mr. McMannus.

2805

Q. The supervisor of the department is Mr. McMannus? A. That's right.

Q. Do you know whether Mr. Pippett is a member of the I.B.E.W.? A. Mr. Pippett is a member of the I.B.E.W.

Q. Do you know whether Wiscowsky is a member? A. I heard Mr. Wiscowsky say that he had gone over the night before he spoke to us with a group of employees from his section and that he had signed application cards for the I.B.E.W.

Q. Well, at the time that he was speaking in this little group in your bureau, he was a member? A. That's

2806

*Robert McCornick—For N.L.R.B.—Cross*

S. M. 1071

right.

Q. Mr. Pippett was a member? A. Yes.

Q. Now, this is the assistant cashier? A. I think his name—

Q. Well, you said the assistant cashier's name was Smith? A. Smith, yes, sir.

Q. Do you know whether he is a member? A. Well, he wasn't eligible to join the union.

Q. Oh, you think he was in the supervisory class?

2807

A. Yes, he was superior to Mr. McMannus.

Q. Mr. McMannus, that is the assistant cashier, he was somewhere up the line above? A. Above.

Q. Above your supervisor? A. Yes, I believe he was directly responsible to Mr. Aiken.

Q. Mr. Aiken? A. Of Mr. MacNamara.

Q. Who is Mr. MacNamara? A. Mr. MacNamara is the treasurer.

Q. Well, now, tell us about this 5:30 o'clock meeting, just where it was held? A. Well, it was held right in the office in the 9th floor in room 938.

2808 S. M. 1072

Q. You mean that is where you work day in and day out? A. Yes.

Q. You have spoken of it, or at least Mr. Moscovitz has spoken of it as a meeting, how many were there, how many were standing around? A. Well, may I have that sheet?

Q. Don't you know without reference to your sheet? A. Well, I can tell you exactly if you will let me.

Q. Well, I would like to see if you have any recollection aside from this precious affidavit. A. About 13 I should say, about half of the force.

Q. And this group of 13 was standing around Mr. Wiscowsky and he was talking? A. That's right.

Q. Was he making anything that you would call a speech or was he just explaining the matter as men will do in a group? A. Well, I think he was really going so fast as declaiming for that.

Q. You think he was actually declaiming? A. He got excited about it.

Q. Well, I suppose members of the labor organization do, I have seen that; were men just standing around, this faithful 13? A. Well, there—they were very attentive, they were desirous of knowing something really substantial about the organization they were being asked

2810

S. M. 1073

to join.

Q. And Mr. Wiscowsky thought as a member he could give it to them and they thought that he could?

A. That's right.

Q. You seem to be very hesitant about your ability to state the number of men without referring to this affidavit? A. I don't like to talk into the air, after all, I like to be exact in what I have to say as far as possible.

2811

Q. Now, you stated talking in the air, that there were 13? A. That's right.

Q. Now, I ask you whether you find that or any number stated in this affidavit for which you were so anxious?

A. Well, no, but I could remember the other individuals who were present if I saw the names of those also present.

Q. Well, how many men have you got shown in this affidavit as present in this little group? A. I have got 1, 2, 3, 4, 5, 6.

Q. That is including yourself? A. That is Mr. Pipett.

2812

*Robert McCormick—For N.L.R.B.—Cross*

Q. That is 6 including Mr. Pippett? A. No, there is Price, Curley, Rosendahl, Rooney, Goebel, I and Mr. Pippett.

Q. That is how many in all? A. Well, that is 1, 2, 3, 4, 5, 6, 7, but there were three others present whose names I can't remember now.

S. M. 1074

Q. So you say now ten? A. So I say ten, yes, sir.

2813

Mr. Moscovitz: That does not include Mr. Wiscowsky?

The Witness: No, sir.

Mr. Moscovitz: That makes eleven?

The Witness: Well, I was speaking of the employees in our group, not Mr. Wiscowsky.

Q. (By Mr. Ransom) That was with Mr. Wiscowsky, then, you would say eleven? A. Yes.

Q. You don't want to change it any more? A. Well, you see the idea I was up against difficulties, because people were moving in and out preparatory to going to lunch.

2814

Q. Just what was the nature of your activity in behalf of the Independent Gas and Electric Union? A. Well, naturally I tried to recruit members for the organization.

Q. In your department? A. In my section.

Q. In your section? A. Yes.

Q. Elsewhere in the company? A. Yes, also through the several places, throughout the system.

Q. When did that start? A. That started on April 29.

S. M. 1075

Q. And continued up until when? A. Continued up to—

Q. Yesterday? A. Yesterday.

Q. And you did what you could along those lines practically every day? A. Well, not within the last week.

Q. That is, you weren't as active about it in the last week? A. No, that's right.

Q. Did you get many applications? A. Well, I don't recall just how many I got.

Q. Can't you give this Board any idea of how many you got? A. Why I have no idea of what I actually got.

Q. Did you talk to these employees on the property?

A. Oh, no.

2816

Q. Never on company property? A. No.

Q. What? A. Unless it was during my lunch hour.

S. M. 1076

Q. I am asking you now on the company property?

A. Occasionally I did speak with them, the employees in my group during my lunch hour.

Q. On company property? A. That's right.

Q. As a matter of fact, isn't it true that your solicitation of members during this time for the independent union took place principally on company property? A. No, I should not say that at all, as a matter of fact principally it took place off the company property, distribution of literature and things like that.

2817

Q. Why did you distribute it? A. Why?

Q. Where? A. Where?

Q. Yes. A. At the store, 4 Irving Place, and 110th St. Plant, out in Flushing.

Q. Not on company property at those locations, you say? A. No, unless the sidewalk is company property.

Q. But did you distribute literature in behalf of the independent union? A. Yes, I did.

Q. During lunch hours at 15th Street? A. No.



2818

*Robert McCormick—For N.L.R.B.—Cross*

S. M. 1077

Q. Never? A. No.

Q. You are sure of that? A. Yes, positive of that.

Q. Mr. Wiskowski was not a man who had any power to hire or fire employees in your department? A. No.

Q. Nor any other department? A. No.

Q. As far as you know? A. No, sir.

Q. And Mr. Pippin has no power of employment or discharge in your department? A. No, but I believe there is something that I can say in answer to that question.

2819

Q. Well, I have no doubt there is something you can say in respect to any question, we will stipulate that, especially if it is in your affidavit; I am asking you now whether he had any power to hire or fire? A. Well, it is impossible for me to answer the question truthfully without making a statement.

Q. Well, I'll admit that as to any question I may ask you, but— A. Therefore, how can I answer yes or no?

Q. Well, do you think you can answer that he has or

S. M. 1078

2820

has not? A. Well, I can say that they can exert some pretty strong influence toward the getting rid of certain employees.

Q. Do you wish to make that argument, do you, that while he has no power to hire or fire— A. He can make recommendations which would result in an employee being fired.

Q. You are sure of that? A. Oh, yes, I am very sure of it, I have seen it happen.

Q. But then your statement is that he has no power to hire or fire but has power to make recommendations? A. That's right.

*Robert McCormick—For N.L.R.B.—Redirect*

2821

Q. And the decision on any question of either employment or discharge rests higher than Mr. Pippin?  
A. That's right. ✓

Judge Ransom: That's all.

**REDIRECT EXAMINATION:**

Q. (By Mr. Moscovitz) Did you ever see Mr. Pippin, Mr. Smith or Mr. Wiskowski or any other supervisory employee call together groups of employees for the purpose of getting them to become members of the Independent Gas Workers Union? A. No, I did not.

2822

Q. Or to become members of C.I.O.? A. No, that was my objection at the time, being called together to join the I.B.E.W.

Q. You wanted to decide for yourself? A. I wanted

**S. M. 1079**

to be presented with cards from all three unions.

Q. At least, you wanted to decide yourself, didn't you? A. Yes, I did.

Q. (By Mr. Ransom) You decided, didn't you? A. Yes.

2823

Q. What? A. I had made my decision, yes.

Q. (By Mr. Moscovitz) After some preliminary interference by certain persons, is that right? A. Yes.

Judge Ransom: I take it he has not testified to all the interference that took place as far as the C.I.O. That is all.

Mr. Moscovitz: Thank you.

(Witness excused.)

Trial Examiner Gates: We will recess for five minutes.

(Whereupon, a short recess was taken.)

2824

*Edward Gideon—For N.L.R.B.—Direct***AFTER RECESS.**

EDWARD GIDEON, called as a witness for the National Labor Relations Board, being first duly sworn, testified as follows:

*Direct Examination:*

Q. (By Mr. Moscovitz) Where do you live, Mr. Gideon? A. 284 East 31st St.

Q. By whom are you employed? A. Consolidated  
2825 S. M. 1080

Edison Company.

Q. How long have you worked for them? A. Seven years.

Q. What do you do? A. I am a service man in the customers' service department.

Judge Ransom: Will you keep your voice up? I would like to hear it. What is it that you do?

The Witness: Customers' service department, a service man.

2826

Q. (By Mr. Moscovitz) What are your duties? A. To service all types of gas supplies.

Q. Were you a member of the employees representation plan? A. I was.

Q. Did you become a member of a different organization? A. I have.

Q. When? A. April 30th.

Q. 1937? A. 1937.

Q. What organization? A. Independent Gas & Electric Union.

Q. Are you still a member of it? A. I am.

Q. Do you hold office? A. I am acting as financial secretary.

S. M. 1081

Q. And can you tell me whether or not at any time after you became a member of the independent organization, you were asked to appear at the Consolidated Edison Company offices at No. 4 Irving Place for the purpose of discussing labor activity? A. I was.

Q. Do you recall when that was? A. On May 3rd, at two o'clock.

Q. 1937? A. 1937.

Q. Who told you to appear? A. Well, in our department we contact our office by telephone if we are on the district. So the dispatcher who dispatches our work to us notified me that our supervisor—

2828

Q. Who was your supervisor? A. Alfred Hanson.

Q. What is his job? A. Sort of acts in a supervisory capacity like an assistant foreman. He dispatches the work over the telephone to the districts.

Q. How many men— A. 29 men.

Q. That he dispatches work to? A. That's right.

S. M. 1082

Q. When does he notify you? A. Well, he notified me at ten o'clock, when I made my one o'clock ring, that I was to go down to the general office, No. 4 Irving Place, and meet Mr. Muelenberg, assistant general superintendent of the Customers' Service Department, and so—and I was to take time off and charge it to personal reasons, so I went down there.

2829

Q. Did he tell you what you were going there for? A. There was no reason given.

Q. Did you get paid for the time? A. I got paid for the time.

Q. You went? A. I went.

Q. Tell us just where you went and what happened.

2830

*Edward Gideon—For N.L.R.B.—Direct*

A. Well, we were there, there were several others, about ten in number, that were informed, and we would agree to meet at the information booth and then proceed to Mr. Muhlenberg's office. When we arrived at the information booth we were told to report to his room on the 18th floor.

Q. Is that the information booth at No. 4 Irving Place? A. That's right, 4 Irving Place.

Q. And who were the other men with you? A. Oh, there was a Mr. Nuttle, who was a service foreman.

2831

Q. A service foreman? A. That's right.

S. M. 1083

Q. Did he have men working under him? A. That's right.

Q. How many? A. About 30 in number.

Q. Yes. A. And Mr.—

Q. Any other foremen? A. Yes, there was another foreman, I can't think of his name.

Q. Mr. Schoch? A. Mr. Schoch, he is assistant foreman.

Q. Was he there? A. He was there.

2832

Q. Is that John Schoch? A. John S. Schoch, yes.

Q. Where is he assistant foreman? A. He is assistant foreman in the same department, Customers' Service, has a district, and then there was Mr. Voozen.

Q. And Mr. Voozen? A. Yes.

Q. Yes, and Mr. Weisenberger? A. Yes.

Q. Is that Frank Voozen? A. Frank Voozen.

Q. What's his job? A. He is a service man in the York Avenue division of the Customers' Service.

S. M. 1084

Q. A regular worker like yourself? A. That's right.



Q. And who was this other man, Weisenberger? A. Charles Weisenberger.

Q. What's he do? A. He is in the same capacity as myself.

Q. Yes. A. And there was also a Mr. William Steinauer, the same capacity as myself and Mr. Carl Kitelberger, the same capacity as myself, who were off that day and who were notified by phone to come in and were paid time and a half to come in, to attend this meeting, and then there was Mr. Boadray, Charles Boadray, who has charge of records, to my knowledge, I think it's records, in my office, the customers' service department, Mr. Stanley Ross and Mr. Barton Donnelly.

Q. What do they do? A. I don't know exactly what their capacity is, I think they are classified as clerks, they don't hold any supervisory position, and I am trying to think of this other foreman's name, I know it just as well as my own.

Q. Mr. Kennedy? A. No, Mr. Kennedy was at the meeting, he is the same.

Q. J. A. Kennedy? A. J. A. Kennedy.

S. M. 1085

Q. He has the same job as yours? A. Same job as my own.

Q. Who else? A. Mr. Meyer.

Q. Mr. Meyer? A. Herman A. Meyer, he is the service foreman.

Q. Where is he service foreman at? A. In the appliance maintenance division of the customers' service department.

Q. How many men does he have under him? A. Approximately 30.

Q. Now, these men who hold the same job as you do, do they work throughout the whole area? A. We work throughout Manhattan.



*Edward Gideon—For N.L.R.B.—Direct*

Q. Throughout Manhattan? A. Yes, sir, some of the men are office men, others are district men that work out in service in the districts.

Q. And you all met at the information booth and you were told there to go where? A. Well, when we met at the information booth, why, Mr. Boadray said that we were to go to room 18—I don't exactly remember the number, but it was a room on the eighteenth floor, which developed out to be the general council room of the Consolidated Gas Employees Representation Plan.

S. M. 1086

Q. Yes. A. We all met there and were talking around, waiting for Mr. Muhlenberg to come in to see us. Mr. Muhlenberg did not appear. Mr. Parker, who at that time was chairman of the employees representation plan of the Consolidated Gas Company, came in.

Judge Ransom: Just a moment. I move to strike that out. The witness could not possibly know, he may state if Mr. Parker was at one time chairman of it, but he is undertaking now to testify about the third of May.

The Witness: Mr. Parker was the chairman at that time.

Q. (By Mr. Moscovitz) You didn't know of any change? A. I didn't know of any change at that time when I came in the room.

Judge Ransom: I move to strike out the witness's answer.

The Witness: Mr. Parker was still chairman, as far as I was concerned.

Trial Examiner Gates: Do you know whether the plan was still in existence?

*Edward Gideon—For N.L.R.B.—Direct*

2839

The Witness: To my knowledge the plan was still in existence at that time.

Judge Ransom: I move to strike.

Trial Examiner Gates: It may stand.

Judge Ransom: It is purely hearsay and entirely contrary to all testimony thus far in behalf

S. M. 1087

of the government.

The Witness: Well, I don't want to be, appear to be arrogant, but it is not hearsay, I know Mr. Parker was the chairman because he had offices there, I have been in contact with him all during the week.

2840

Trial Examiner Gates: You may continue.

Q. (By Mr. Moscovitz) You had been in contact with him all during that week? A. That's right.

Q. The week immediately preceding the 3rd of May?

A. That's right.

Q. At that office? A. I called at that office, yes.

Q. And did he spend all of his time at that office?

A. That's right.

Q. In the employee representation work? A. That's correct.

2841

Q. And you called him regarding employee representation plan work? A. Yes, we called him regarding the union activities, they had started, and regarding the company's recognition of the I.B.E.W. I wanted to find out information about it.

Q. You wanted to find out if it was so or not? A. That's right, I wanted to find out just what they were doing about it, because the men that I was working with wanted to know the information and they could

*Edward Gideon—For N.L.R.B.—Direct*

S. M. 1088

not get any information.

Q. Well, what did he tell you? A. Well, he told us that, it's a long story, I mean, I would have to go back and start from the very beginning and work all the way through, if you want to hear, do you want me to do that?

Q. Yes. A. Well, when the management recognizes the I.B.E.W. as the means of collective bargaining, as soon as I read about it in the paper the following morning, I immediately called Mr. Parker on the phone and asked him what he was going to do about it and he said that, well, we had four alternatives, we could either join the I.B.E.W., we could have our own independent organization or we could do nothing about it at all, just do nothing at all, and I said, "What are you going to do?" Well, he says, "I have some seven thousand signatures expressing the desire of the employees in the plan to continue along whatever lines the employees want." That is a couple of weeks previous to all this breaking out why he had distributed cards and that had all the members of the plan sign them if they wished to continue on in the same lines as they had before in the employee representation plan.

So I said, "Well, what are you going to do about it?"

S. M. 1089

So he said, he was very vague, he didn't know, so the following morning, as he works in my department, he does not work there, I mean, he is assigned to my department, he hasn't worked there in the last few years, but he came up for his pay the following morning, which was Thursday morning, for his pay and naturally being the general council chairman the men all crowded

around him and questioned him on what was going to be, and he said the management wanted the A.F.of L. and he thought it would be the best for the management, or for the members to join the A.F.of L., but they were going to hold a general assembly meeting on Friday.

Q. When was it that he told you that? A. This is about two days, right after the management had recognized the——

Q. The I.B.E.W.? A. The I.B.E.W. So there was some accusations made there at this meeting among the men there, that Mr. Parker and the representatives had sold out the employees, and Mr. Parker didn't take it very kindly, and attempted to hit one of the men, but he was stopped.

2846

Then things were quieted down a bit, and then we instructed our representatives to go down to this general assembly meeting and insist that we wanted no part of any national or international organization; that we wanted our own independent organization, and he said he would go down there.

S. M. 1090

2847

He came back the same afternoon and he brought back these I.B.E.W. cards and said that the management wanted the I.B.E.W. and the best thing he could see that we had better join the I.B.E.W.

Q. When was it that he told you that? A. That was the afternoon of the general assembly, I guess it was Friday afternoon.

Q. Three days after the announcement? A. That's right.

Q. Regarding the I.B.E.W.? A. That's right.

Q. Where was the meeting held? A. Which meeting is that?

*Edward Gideon—For N.L.R.B.—Direct*

Q. The afternoon meeting? A. With the man that brought the cards back, do you mean?

Q. Yes. A. That was held at 708 First Avenue, where my particular district has its meeting place. We meet there mornings and nights.

Q. Is that Consolidated Edison— A. That is the old New York Edison Company building.

Q. Yes. A. So he distributed the cards around and said that he had already signed up and paid his \$1.50. Naturally, there was quite a lot of discussion about it.

S. M. 1091

and we asked the foreman what did he think we ought to do.

Q. Who is the foreman? A. Walter Purdy.

Q. Who is he foreman of? A. Foreman of the appliance parts division, the customers' service department. I am under his supervision.

Q. How many men does he have under him? A. Approximately 30 men. I might say for the record that 11 the foremen in the appliance parts division have practically 30 men under them, so we questioned Mr. Purdy on it because we thought that he would have some inside information on what was what, so there was a lot of feeling that the men did not want to sign, so finally Mr. Purdy said, "Well, I am going to sign," and he signed.

On the basis of that, about ten out of the thirty men signed. So I didn't sign, and several others didn't sign. We were to have at least the week-end to talk it over. So during the week-end, why, we met amongst ourselves individually, you know, and we talked it over, and we came back on Monday and decided that we would not join, either the American Federation of Labor or any national organization.

Q. That is, you didn't want either the American Federation of Labor or the C.I.O.? A. No, we did not.

**S. M. 1092**

Q. All right. A. So things ran along for a week until Friday of the following week, which is April 30th, and we decided we would hold a meeting of a few men and see if we could arrange to have a mass meeting somewhere where we could get a clear picture of what all this was. So we arranged to have a meeting and we met at 152 Third Avenue, Teutonia Hall, at half past five.

2852

Q. That was not company premises? A. No, that was not company premises. And we took up voluntary contributions amongst ourselves to pay for it, and we invited approximately 20 men. There were 300 men there that night, and at that meeting we invited Mr. Crowell and Mr. O'Brien from the New York Edison Company, who had gotten up petitions to ask the employees whether they wanted an independent organization or not.

And so we started this meeting and planned for this mass meeting, and the mass meeting was to be held the following week, May 5th, on Thursday night. So, it so happened that Teutonia Hall, as all halls of that nature, has a bar, so we, after the meeting, the meeting was conducted in a very orderly manner by Mr. John Schacht, and at the conclusion of the meeting, why, several of the men, of course, went to the bar to refresh themselves, so nothing happened except that we had gone ahead and made different plans. We had picked

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**S. M. 1093**

up the throw-aways to announce the mass meeting, which was to be held under the auspices of the Cus-



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*Edward Gideon—For N.L.R.B.—Direct*

tomers' Service Department, to which we intended to invite a man from the I.B.E.W., a gentleman from the C.I.O., and a gentleman to speak on the independent organization, and we laid out a plan of meeting where each speaker would be allowed 15 minutes and then there would be a question period and then there would be a period of sentiment among the speakers, and it was decided that Mr. John Schacht would act as chairman of the meeting, and I would act as secretary.

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So nothing developed over the week-end, so that on Sunday afternoon we got together and picked up the throw-aways to distribute, and we met again at Teutonia Hall. So then came this next Monday, when we were called down supposedly to meet Mr. Muhlenberg.

Q. That was May 4th, do you say? A. No, May 3rd.

Q. May 3, 1937? A. Yes.

Q. Go on. A. We were called down to supposedly meet Mr. Muhlenberg, assistant general superintendent of the Customers' Service Department. So now, I am back to the point where we were in the room.

S. M. 1094

2856

Q. Now, you are up to the room. A. Yes. So we waited for Mr. Muhlenberg and he didn't show up, so Mr. Parker came in and Mr. Parker said, "Men, I have called you together this afternoon because I understand that a group of you men were ring-leaders in a meeting last Friday night, and met in a beer garden and you were drunk and disorderly and you defamed my name by saying that I sold you out, that as chairman of the employees representation plan, I sold you out."

So Mr. Nuttle, one of the service foremen, was there and asked Mr. Parker if we were on the spot with the management, and Mr. Parker says, "No, you are not on the spot. I only called you here to explain our stand

on going into the I.B.E.W.," and then he proceeded to tell about what had transpired in the general assembly meeting and how Mr. Stillwell had spoken to them and Col. Stillwell, who is the vice-president, had spoken to the men on the reasons why the company had recognized the I.B.E.W., that they thought it was the lesser of two evils, so we asked him if the question hadn't been brought up in general assembly by the representatives if we couldn't have our own independent organization, and the question was raised, and Mr. Stillwell answered it by saying that as much as he would like to see the members have their own independent organization, he felt that we couldn't make a go of it, and it was to the

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S. M. 1095

best interests of the me. to join the I.B.E.W.

So they went on to explain what had transpired at the meeting and so forth, and then we asked him various questions and then we brought up the question of whether, if we, as a group of employees of Consolidated Edison Company, went to Mrs. Herrick, of the—

Q. Before you get to that point, can you tell me whether or not Mr. Parker was an officer of the company? A. Mr. Parker?

2859

Q. Yes. A. He was chairman of the employee representation plan, he was an employee of the company. He was no officer.

Judge Ransom: He was president of the gas local, wasn't he?

The Witness: That's right.

Q. (By Mr. Moscovitz) And he could call you men into this meeting, even the men that had their day off?

A. Yes, he could. Now, before I go any further, I am missing a point there. At that point that he told us

2860

*Edward Gideon—For N.L.R.B.—Direct*

officially the employees representation plan had gone out of existence midnight of April 30th, we had asked him why we were not informed of it. He said, well, the representatives were informed of it. He said, "Why wasn't a written notice sent around to all the employees and posted on the bulletin boards?" "Well," he says, "We have been very busy," he says, "We have not been

S. M. 1026

able to get that notice out, but it will be gotten out."

2861

As yet the notice has not appeared, so I mean, as far as I am concerned, it must be the employees representation plan that is in the company, because the management has not told me there isn't any yet.

Judge Ransom: I move to strike out the answer as purely speculative and incompetent. In fact, I move to strike out the entire testimony about Mr. Parker. It is not in any way binding upon the respondents what the chairman of the employees representation plan said. It is purely hearsay. It is not claimed that any representative of any of the respondents was present.

2862

Mr. Moscovitz: Mr. Examiner, I submit Mr. Parker is a very important person here, if he can call all these men in from their jobs to a meeting in the office of the company, and have this discussion with them about the vindication of his honor, as well as other things, I submit that the testimony is quite competent.

Trial Examiner Gates: The record may stand.

Judge Ransom: Exception.

A. So Mr. Parker then informed us that he was no longer an employee of the Consolidated Edison Company, that he had left the employ as of May 1, 1937, to

*Edward Gideon—For N.L.R.B.—Direct*

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become a temporary international organizer for the I.B. E.W., and that he was no longer on the payroll, that he

S. M. 1097

had requested a leave of absence and that leave of absence was to extend until June 1, 1937, so that was quite a surprise to us, and then, because then he went on to say that the management had told him that he must vacate his former office as chairman of the employees representation plan by that night, must clean it out, and that he did not want to get into any lengthy discussion because he had all his business to clean out.

2864

And then we went on and asked Mr. Parker if we went to Mrs. Herrick and requested her to hold an election among the employees of the Edison Company, do you think that she would grant such an election?

Judge Ransom: Objected to as wholly incompetent and not even interesting as to what the witness or Mr. Parker as president of the local union and the gas employees think about what Mrs. Herrick would or would not do.

Trial Examiner Gates: You may answer.

Judge Ransom: Exception.

2865

The Witness: Mr. Parker stated that he did not think that we would get any place with the National Labor Relations Board because the Consolidated Edison Company could buy or sell the National Labor Relations with what it all—

Judge Ransom: Now, just now I move to strike out the answer, if that sort of thing constitutes the efforts of the government to make a case I suppose I should not object to it.

S. M. 1098

Mr. Moscovitz: Well, I certainly think that

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*Edward Gideon—For N.L.R.B.—Direct*

if Mr. Parker is able to call all these employees together at will on the company's property and make discussion with them regarding organizational activities, he is speaking for the management, as far as I am concerned.

Trial Examiner Gates: The record may stand.

Judge Ransom: Exception.

The Witness: So then we continued with our discussion and we asked Mr. Kindelberg, who was there, and asked Mr. Parker, "Who sold us out? He or Ganley or who?" And Mr. Parker said, "If you want my frank opinion, the management sold you out," and then we questioned him and asked him who was going to pay us for our time and he told us that that was our fight with Mr. Vilas, our immediate supervisor, and with that, why, the meeting adjourned and we left.

2867

Q. (By Mr. Moscovitz) Did you have any difficulty in securing a payment from Mr. Vilas? A. No, the payment came through, we had no discussion at all and the men that were off got paid time and a half for overtime.

2868

Q. All right, can you tell me whether or not Mr. Parker did vacate his offices during the month that he was on leave of absence? A. I don't know officially

S. M. 1099

whether he did or not, but he told us that he was to vacate the office by May 3rd, that night, he had to get out of that office, I know that for a fact, but while, when we left the meeting, Mr. Fisher came in, he came in with a lot of money and he said that he had collected some \$2,000. in I.B.E.W. collections, and Mr. Parker said that was fine work and he brought it into the office to count the money up there. I know that.



Q. Who is Mr. Fisher? A. Mr. Fisher was formerly representative from the Hunt's Point plant on the employees representation plan.

Q. What was his job with the company outside of that? A. I don't know what his job with the company was.

Q. You mean, he came into the council room with that money? A. That is right, he and Mr. Westoff.

Q. Who is Mr. Westoff? A. Mr. Westoff was the vice-chairman of the general council.

Q. From where? A. Well, he—

2870

Q. Where was he employed? A. I don't know.

Q. Did you all leave at the time of the counting of the money? A. We were out in the hall when they came in, we were having a discussion in the hall. After this

S. M. 1100

meeting, of course, we went home because the meeting broke up at 4:30, and we were finished at 4:30.

But the next day, of course, we reported back to the meeting to our fellow employees, during the course of the day several of the men, the men who had the meeting with Mr. Parker, Mr. Schacht, Mr. Nuttle, they were called in by Mr. Vilas and Mr. Muhlenberg of the Customers' Service Department.

2871

Q. What is Mr. Vilas's exact title? A. He is the superintendent of the appliance maintenance division of the Customers' Service department.

Q. He is top man? A. Yes, in the appliance maintenance department.

Q. Can he hire and fire? A. Well, I don't know.

Q. Can he fire? A. Probably he can recommend, I don't think he can—

Q. All right. A. So these men, I was not called in, Mr. John Schacht gave me the conversation that had



2872

*Edward Gideon—For N.L.R.B.—Direct*

gone on there between he and Mr. Muhlenberg and Mr. Vilas, which was to be considered as off the record, unofficial, and that conversation was that the management had recognized the I.B.E.W., that the management wanted the I.B.E.W. and that Mr. John Schacht was to

S. M. 1101

be chairman of that mass meeting to be held on May 6th it would embarrass the management very much if we continued to hold that mass meeting and that he was advised to call the mass meeting off.

2873

On the basis of having called in several of these men, three of them, to my knowledge went out and immediately signed up with the I.B.E.W.

Q. Who was that? A. That was Mr. Ross, Mr. Donnelly and Mr. Boadray.

Q. Well, did you have any discussion with Mr. Purdy, your foreman? A. Well, I had a discussion with Mr. Purdy, well, Mr. Purdy was in too.

Q. Well, while you— A. He was called in.

Q. While Mr. Schacht was there? A. Yes, but they were called in each as an individual, not collectively.

2874

Q. You were never called in? A. I was never called in.

Q. Did you have any conversation at all with Mr. Purdy? A. Well, I was out in the district and Mr. Purdy came back down and he is the foreman, he came back down and word was given again by dispatch that all the men would report to the district meeting place.

S. M. 1102

Q. When was that? A. That was on Tuesday, May 4th.

Q. Yes. A. So we all got back, because we knew there something important.

*Edward Gideon—For N.L.R.B.—Direct.*

2875

Q. Is that the same group that appeared the day before? A. No, that's not the same group, that is the men that I work with in my district.

Q. Just your group of men? A. Just the group of employees.

Q. Yes. A. So Mr. Purdy said that he was going to say something to the men, he wished no questions asked when he was finished saying it, and when he was finished saying it, it was his opinion and nobody else's opinion but his, but he wanted to answer no questions.

So he got up on the table.

2876

Q. Where was that at? A. At 708 First Avenue.

Q. How many of you were there? A. About 30 of us, the whole district was there.

Q. That was during your working hours? A. That was during working hours, this was between four and four-thirty.

Q. Yes. A. And Mr. Purdy got up and stated that

**S. M. 1103**

the management had recognized the I.B.E.W., the management wanted the I.B.E.W. and the men better join the I.B.E.W. or take the consequences and he advised nobody to attend the mass meeting on Thursday, May 6, 1937.

2877

He said that was his personal opinion and he said that he would have nothing to do with answering any questions or anything.

Q. Did he emphasize the fact that it was his personal opinion? A. He emphasized that it was his personal opinion, and the next morning Mr. Purdy had delivered to him by Mr. J. A. Kennedy, who was working for the company on I.B.E.W. activities, I mean he was working on I.B.E.W. activities, and being paid by the company.

Q. How do you know that? A. Well, because he came

*Edward Gideon.—For N.L.R.B.—Direct*

over to our meeting place and he had no leave of absence, there is no record of any leave of absence because I took the trouble to check up on it through the cashier's department of our department to find out whether he had taken a leave of absence.

Q. When was that? A. That was during, that was right after I had been called down by Mr. Parker. I checked to find out if they had taken a leave of absence and I found that Mr. Parker had, but Mr. Kennedy, J. A. Kennedy, had not and he came over to our meet-

S. M. 1104

ing place on May 5, 1937, and delivered to Mr. Purdy, our foreman, a receipt book and application cards for the I.B.E.W. Mr. Purdy then signed up Mr. Martin, who was the assistant foreman, and Mr. Hampson, who was the dispatcher, to the I.B.E.W.

He did not sign anybody else up, because they refused to sign.

Q. Was this during working hours? A. This was during working hours.

Q. Did you ever have any discussion with Mr. Vilas after that about the I.B.E.W.? A. No, I never had any discussion with Mr. Vilas. I might add that Mr. Vilas in no way has expressed an opinion on whether we should join the I.B.E.W., the C.I.O., or any labor organization. Mr. Vilas has been very fair in the whole thing, he is the only supervisor in our department that has been that fair.

Judge Ransom: I move to strike out the witness's argument, incompetent, unrelated to any issues here.

Trial Examiner Gates: It may stand.

Judge Ransom: Exception.

Q. (By Mr. Moscovitz) Now, can you tell me, do you

know what George Parker's regular pay is, yes or no?  
A. Yes.

Q. Well, how do you know? A. Because I checked up

S. M. 1104-a

on it through the cashier's department of the division.

Q. And what is his regular pay? A. \$40.50.

Q. Do you know what his pay was the week preceeding the day he left to start his leave of absence?

A. Well, it ran in the neighborhood of about \$101. and change.

S. M. 1105

Q. And that included overtime? A. That's right.

Q. Was that overtime spent in activity for the I.B.E.W.?

Judge Ransom: That is incompetent, the witness can't know that.

The Witness: I assume—

Trial Examiner Gates: Just a moment please, when there is an objection being made don't answer.

The Witness: I am sorry.

Trial Examiner Gates: What is the objection?

Judge Ransom: What is—the objection is that the witness merely speculates and guess about those matters, purely hearsay and not competent as a method of proving anything.

Mr. Moscovitz: I will withdraw the question.

Q. (By Mr. Moscovitz) Will you tell me whether or not during that week Mr. Parker was engaged as he had previously been engaged in the company? A. Well, he was, that week that he drew down that large sum of money, he was working on what was supposed to be

2834

*Edward Gideon—For N.L.R.B.—Cross*

employees representation plan business, overtime on that work.

Q. And was it during that week that he discussed, he made, he was engaged in these conversations about which you have testified? A. That is correct.

Q. Concerning the L.B.E.W.? A. That is correct.

S. M. 1106

Q. And he was not at all employed in regular company business, so-called? A. No.

2835

Q. I see. A. No.

He has not been employed in company business for the last two years, I mean strictly company business, I mean he is supposed to be a service man in the appliance maintenance division, but he has been the general council chairman for the last two years and therefore has worked on plan activities prior to him becoming general council chairman when he made in the neighborhood of \$27.00 a week and when he became council chairman he was raised to \$40.50.

Q. And that last week he got over a hundred dollars? A. That is correct.

2836

Q. And the payroll records of men like George Parker are at 408 East 111th Street, aren't? A. That is correct.

Q. So if the company wants to check on that particular record, that is where it is? A. That is correct.

Mr. Moscovitz: That's all.

#### CROSS EXAMINATION:

Q. (By Mr. Ransom) Mr. Gideon, you are engaged on the gas side of the business of the Consolidated

S. M. 1107

Edison Company? A. That is correct.



Q. We have had witnesses chiefly in relation to electric matters so far; your work is in connection with the servicing of gas appliances? A. Well, right now in the past year I have been doing what is termed as new business work. I instruct plumbers how to keep up various appliances sold by the company, inspect them and see that they are connected properly.

Q. That is your work is done with local plumbers and on consumers premises? A. That is correct.

Q. Now under the employees representation plan was there a separate organization up through the general council for the gas employees, I mean separate than that for the electric employees who had been in the New York Edison Company? A. That is correct.

2838

Q. And Mr. Parker, prior to the disillusion or abandonment of the employees representation plan of collective bargaining had been chairman of the gas employees general council? A. That's correct.

Q. That was an organization wholly independent and separate from the organization of the electric employees which had been in the New York Edison and came into the Consolidated Edison by merger? A. That is correct.

S. M. 1108

2839

Q. Likewise after the recognition of the I.B.E.W., was there formed a local union of employees in the gas side of the work which was a separate and different union from that which has been identified here in connection with the electric employees? A. You mean in the I.B.E.W.?

Q. Yes. A. Oh, yes.

Q. Do you happen to know the number of the local union which is of gas company employees? A. I think it is local B-70 or 830, 730 or 830, something like that, I have not taken much interest in it.



*Edward Gideon—For N.L.R.B.—Cross*

Q. Now, you have spoken about a number of men here. Is Mr. Kennedy a member of the I.B.E.W.? A. He is. He has been appointed by Mr. Parker as the I.B.E.W. representative for the appliance maintenance division.

Q. Well, I think you said that Mr. Parker has been the president of the gas employees local union No. 830, or whatever the number may be? A. No, I didn't say that. I said that Mr. Parker is a temporary international organizer. There are no officers to my knowledge in the gas local of the I.B.E.W.

Q. Has there been any election? A. Not that I know of.

S. M. 1109

Q. Do you know whether there have been any officers serving? A. Not to my knowledge.

Q. So your statement is that, as far as you know, Mr. Parker is only the temporary general organizer for this local union No. B-830? A. That is correct.

Q. Mr. Purdy is, I think you said, a member of the I.B.E.W.? A. That is correct.

Q. How about Mr. Mulenburg? A. Mr. Mulenburg, I think—Mr. Mulenburg is assistant general superintendent.

Q. I just wanted you to state. He is called assistant general superintendent of the customers' service department? A. That is correct.

Q. It is not your understanding that he is a member of a local union? A. I have no idea whether he is or not.

Q. You don't know? A. No.

Q. Mr. Vilus? A. I don't know.

Q. You don't know whether he is a member or not? A. No.

Q. You mentioned Mr. Charles Boadray, who worked on records in your office? A. That is correct.

S. M. 1110

Q. Is he a member? A. To my knowledge, he is.

Q. Mr. Herman Meyer? A. He is to my knowledge.

Q. Mr. Purdy is, you say, an assistant— A. Mr. Purdy is my immediate supervisor. He is a service foreman in the appliance maintenance division.

Q. And you referred to other service foremen? They are field foremen; aren't they? A. That is correct.

Q. And were these other foremen and assistant foremen that you mention—are they members of the I.B.E.W.? A. Well, it all depends on whom you mean.

Q. I want to know, because I wasn't able to get all their names? A. The men that I mentioned that were assistants, Mr. Herman Meyer, a service foreman, is a member of the I.B.E.W. Mr. William Nuttle, a service foreman, is a member of the I.B.E.W. Mr. John L. Schacht, assistant foreman, is chairman of the independent gas and electric union.

Q. Mr. Hanson, this dispatcher, I think you said? A. He was formerly a member of the I.B.E.W. He is now a member of the independent gas and electric union.

Q. That is all.

S. M. 1111

(Witness excused.)

Trial Examiner Gates: We will recess until next Wednesday, June 23, 1937, at 10:00 o'clock A. M.

(Thereupon an adjournment was taken at 4:30 P. M. until June 23, 1937, until 10:00 o'clock A. M.)

ADJOURNMENT.

2896

## Minutes of Hearing, Held June 23, 1937

S. M. 1112

BEFORE THE  
NATIONAL LABOR RELATIONS BOARD  
SECOND REGION

IN THE MATTER

of

2897 CONSOLIDATED EDISON COMPANY OF NEW  
YORK, INC., and its affiliated companies,  
BROOKLYN EDISON COMPANY, INC.,  
NEW YORK & QUEENS ELECTRIC LIGHT  
& POWER COMPANY,  
WESTCHESTER LIGHTING COMPANY,  
THE YONKERS ELECTRIC LIGHT AND  
POWER COMPANY,  
NEW YORK STEAM CORPORATION,  
CONSOLIDATED TELEGRAPH & ELECTRIC  
SUBWAY COMPANY,

*Respondents,*

and

2898 UNITED ELECTRICAL AND RADIO WORKERS  
OF AMERICA, affiliated with the COMMITTEE  
FOR INDUSTRIAL ORGANIZATION.

Case No.  
II-C 224

14 Vesey Street,  
New York, N. Y.,  
June 23, 1937.

The above-entitled matter came on for hearing pursuant to adjournment taken June 17, 1937, at 10:00 o'clock A. M.

Before:

ROBERT M. GATES, Trial Examiner.

*John Young—For N.L.R.B.—Direct*

2899

**Appearances:**

DAVID A. MOSCOVITZ, Esq., Attorney for the National

S. M. 1113

Labor Relations Board.

WILL MASLOW, Esq., Attorney for the National Labor Relations Board.

LOUIS B. BOUDIN and SIDNEY ELLIOTT COHN, 8 West 40th Street, New York, N. Y., appearing for United Electrical and Radio Workers, Local 1212.

2900

MESSRS. WHITMAN, RANSOM, COULSON & GOETZ, 40 Wall St., New York City, N. Y. (by William L. Ransom, Jacob H. Goetz, and Pincus M. Berkson, of counsel), appearing specially for the respondent companies, reserving all objections to jurisdiction.

S. M. 1114

**PROCEEDINGS**

2901

Trial Examiner Gates: Proceed.

Mr. Moscovitz: Mr. Young.

JOHN YOUNG, called as a witness for the National Labor Relations Board, and being first duly sworn, testified as follows:

*Direct Examination:*

Q. (By Mr. Moscovitz) Where do you live, Mr. Young? A. 446—43rd St., Brooklyn.

2902

*John Young—For N.L.R.B.—Direct*

Q. By whom are you employed at the present time?

A. New York & Queens Electric Light & Power Company.

Q. What kind of work do you do? A. Lineman.

Q. Are you a member at the present time of the U. E. R. W.? A. Yes, sir.

Q. How long have you been a member? A. Since the union swung from the I.B.E.W. over to the C.I.O.

Q. Were you before that, then, a member of the U.E.R.W.? A. Yes, sir.

2903

Q. Were you before that also a member of the E.R.P.? A. Yes, sir.

Q. Were you as a member of the E.R.P. a representative of the employees of the overhead bureau? A. That's right.

Q. When was that? A. Well, I was a representative for two terms.

S. M. 1115

Q. What terms? A. Whenever the company started the union.

2904

Mr. Ransom: I move to strike out the witness's statement as contrary to the evidence, as purely hearsay.

Trial Examiner Gates: It may stand.

Judge Ransom: Exception.

Q. (By Mr. Moscovitz) When was that? A. 1934, I think they started it.

Q. Yes, were you representative then? A. Yes, sir.

Q. Were you representative after that? A. I was a representative until, for the first time in 1935, then for a year after that I wasn't any representative and then I was elected again.

Q. When were you last elected? A. I was elected in 1936, in June.

*John Young—For N.L.R.B.—Direct*

2905

Q. How long did you serve? A. I served up—

Q. Until you went into the I.B.E.W.? A. No, I served up to the time that the company recognized the I.B.E.W. As a matter of fact, I was never officially notified that I was no longer a representative.

Q. I see, just went out of existence? A. That is all.

S. M. 1116

Q. Were you a member of the joint council? A. No.

Q. Do you recall George O'Brien? A. Yes.

Q. Who is he? A. He was an employee from our plant that was elected a representative in 1935, when the other representatives refused to accept the job, and he took it.

2906

Q. Who were the other representatives? A. Well, I was elected myself in '35, too, and a fellow by the name of William Kennedy and a fellow by the name of Albert Martini.

Q. Was Albert Martini elected at that time? A. Yes.

Q. Do you recall the month? A. I think it was June. I am not sure about the month, but it was that time of the year, anyway.

Judge Ransom: What year?

2907

The Witness: 1935.

Q. (By Mr. Moscovitz) Did you take any steps after the June, 1935 election to sever the employee representation association from relationship with the company?

A. Well, before the election in that year, we were successful in putting through for the membership to vote in an election if they wanted the company plan to stand or to go into an independent organization.

S. M. 1117

Q. Now, when was that? A. That was that same year, for election, around June.



*John Young—For N.L.R.B.—Direct*

Q. June, 1935? A. That's right.

Q. And did you men contact the employees to find out if they wanted to continue in the plan? A. We discussed this at the meetings of all the representatives in the recreation room in Flushing.

Q. Did you have cards with you, pledge cards? A. No, not at that time.

Q. Not at that time? A. No.

Q. What did you discuss with the men? A. We discussed between ourselves—all the representatives got together and we discussed that we would give the representatives an opportunity to vote if they wanted to continue the company plan or if they wanted to join an independent organization. That was put on the ballot for them to vote on.

Q. You say that was June, 1935? A. That's right.

Q. Was there a ballot taken on that question? A. Yes.

Q. At that time? A. Yes.

S. M. 1118

Q. Was there a vote? A. There was.

Q. And was the vote just in your company? A. Yes, in our company.

Q. Do you recall what the result of the vote was? A. Well, I couldn't say exactly what the result was, but I know that we were not successful in winning a victory.

Q. Yes, and then what took place, do you recall? A. The men of the overhead bureau that elected me as a representative didn't want to have anything to do with the plan and then I refused to take any part in it, and this fellow O'Brien that you mention, I think he got four or five votes and he came to the front and he accepted and he appointed another man.

Q. Who did he appoint? A. A fellow by the name of Rudolph Reese.

Q. Yes, to sit on the council? A. Yes.

Q. Did you after that step out of the picture completely? A. I did not have anything to do with the collective bargaining at all.

Q. You had nothing to do with the plan? A. No.

Q. Did you have after that any pledge cards that you

S. M. 1119

took around to the men? A. That was this year.

Q. When in this year? A. Around the end of March or the first of April.

2912

Q. 1937? A. That's right.

Q. What kind of pledge cards were they? A. As I recall, it was a white card and for the employees to signify their intentions for carrying on the company plan.

Q. Who gave you these cards? A. We got them at the Gas and Electric Building on Roosevelt Avenue, we were called in to a special meeting one morning, all the representatives of the overhead bureau.

Q. Called in by whom? A. By R. A. Burns, he was chairman of the distribution department.

Q. The committee? A. Yes, representing the employees.

2913

Q. Yes, and he produced— A. And he produced the cards after we went there and he told us that those cards came from the management and those cards are to be taken around to the representatives, to contact everybody connected with the plan, and after we have all the contacts made, return them again and we asked him if the cards were to go back to the management again and he said, "Undoubtedly they would."

S. M. 1120

Q. What do you mean when you say "contacts

*John Young—For N.L.R.B.—Direct*

made"? A. Well, in our bureau the gangs are scattered throughout the territory, and in order that we may contact every one we have got to go from one location to another to contact the men and ask them how they felt about signing those pledge cards or not.

Q. How many of you were doing that? A. Two, because the third man that was on with us as a representative was this O'Brien that was mentioned before and he had been transferred to the inventory department from the time previous.

Q. I see, and who was the other man? A. Albert Martini.

Q. And did Martini take cards out, too? A. Well, we always, when we went around to see the men, we have a big territory to cover and in order that we may cover the territory in the time that was allotted to us, we decided that we would go out singly whenever we had anything to tell the men, but this time I felt that this was a very important thing and I did not wish to go around alone because I did not know what the results would be, so I decided that we would come out and go together and before we did that, we found out if it was all right to take as much time as we wanted to to do it.

S. M. 1121

Q. Who did you phone? A. What?

Q. Who did you phone to find out? A. We asked Burns if it was all right and he said "yes," and after that we asked Patrick Cary, he was chairman of the general council, if it was all right and he said "yes, take all the time you want to do the job."

Q. What did your boss say about it? A. Well, he didn't have anything to say about it.

Q. What was his name? A. What do you mean, my immediate boss?

Q. Yes. A. The foreman in the gang?

Q. Yes. A. I was working for a fellow by the name of George Gardner, at that time.

Q. Didn't he have anything to say about it? A. No.

Q. You could go and come as you pleased on this kind of work. A. That's right.

Q. You always have? A. Yes.

Q. Now, how much time did you spend doing that?

A. It took us more than three days to do that job.

Q. How many of the men did you contact? A. We contacted between 160 and 170.

S. M. 1122

Q. Each of you? A. The two of us together.

Q. The two of you? A. Yes.

Q. And you got your regular pay, did you? A. Yes, sir.

Q. What did you do with the cards after you had circulated all of the men? A. Well, there was a lot of controversy about the cards in our bureau because out of the 160 some odd men that we contacted in the bureau, only 23 signed the cards, and when we turned them into the general council, they thought it was terrible that we would be out more than three days contacting the employees and bringing in only 23 signatures.

So Patrick Cary expressed his sentiments that he felt that we did not do a good job, and if he had somebody else on the job, as a matter of fact, he said if O'Brien was on the job he would bring in all them cards signed. So I asked him if he felt that way about it to come before the men any morning or evening that he wanted to, as long as he made arrangements with the management to get 10 or 15 minutes and talk to the men and ask them by a show of hands if they wanted to sign the cards.

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I thought that would be the quickest way to do it, and he did not do that and in the course of a few days

S. M. 1123

after that I was called up by phone and I was told that Pat Cary and Martini were cooking up a plot to take the cards around again to the men and leave me out of it.

Q. Who called you?

Judge Ransom: I move to strike out the answer as wholly hearsay, unidentified, not within the issues.

Trial Examiner Gates: It may stand, if the witness states the basis of his information.

Q. (By Mr. Moscovitz) Who called you up? A. John Sutton from Jamaica.

Q. What was his job? A. He was a chairman of the bureau council.

Q. Was that George Sutton? A. Yes, George Sutton, excuse me.

Q. And before this, when you and Martini were circulating the cards, did you ask each individual man if he wanted to continue the plan? A. Well—

Q. How did you do it? A. I held the cards and Martini did the speaking. We went to the foreman whenever we came to a gang and we asked the foreman if we could have the gang ten or fifteen minutes to explain the case to them, and in all cases they said it was perfectly all right, and we would get them around the truck and explain it to them. —He would tell them what

S. M. 1124

was what, and after he had finished, I would hand out a card to each man and tell them to do what they wanted to do, sign it or not, whatever they felt best.



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2923

Q. You were not a very enthusiastic distributor of cards, were you? A. Well, I was told not to say anything either way, so I didn't want to say anything either way, because somebody would probably point a finger at me afterwards, that I said something out of the way, and I didn't want to do that.

Q. And then you got the number of cards that you have already indicated signed? A. Yes.

Q. And you were testifying just before about a statement made to you by the general council representative—

2924

Judge Ransom: Bureau council, I think.

A. Bureau council representative, bureau council chairman.

Judge Ransom: Overhead bureau, wasn't it?  
The Witness: Overhead bureau, that's right.

Q. (By Mr. Moscovitz) The overhead bureau? A. Yes.

Q. Go on. A. He told me he was called to a special meeting to the Gas and Electric Building and Patrick Cary was there, chairman of the general council, and Albert Martini. I was not asked to be there.

2925

S. M. 1125

Q. When was this? A. Some time in April.

Q. 1937? A. Yes.

Q. Go on. A. And Pat Carey and Martini left the general council office and went to another office across the hall, because they didn't want Sutton possibly to know what they were talking about.

Judge Ransom: I move to strike the answer out as wholly hearsay, in no way binding on the respondents, not within any issues here.



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**Trial Examiner Gates:** The reporter will please read the answer.

(Answer read.)

**Trial Examiner Gates:** Motion to strike is granted, beginning with the word "because."

**Judge Ransom:** I move to strike the entire answer because this witness was not there, purely hearsay, quite outside the issues here as to the respondent New York & Queens Electric Company. The complaint and charge tender no issue as to the employees representation method of electing representatives.

**Trial Examiner Gates:** It may stand if the witness states the basis of his knowledge.

S. M. 1126

**Judge Ransom:** Exception.

A. After they had talked for about an hour and a half in this other office, they came back in and decided that they would ask Sutton to take the cards around to the men again in the Elmhurst district in the overhead bureau—

**Judge Ransom:** I now move to strike both answers on the same grounds previously mentioned.

**Trial Examiner Gates:** Ruling may stand. The answer may stand if the witness can state the basis of his knowledge.

Q. (By Mr. Moscovitz) Do you know how—how do you know this? A. Because I was told to be careful because they were cooking up a plot to get me.

Q. Who was cooking up a plot? A. Martini and

*John Young—For N.L.R.B.—Direct*

2929

Cary, because I didn't get enough cards signed up in the Elmhurst district, that just because I happened to be connected with an independent organization, my sentiments wouldn't be with the cards.

Judge Ransom: I now move to strike the two answers to which my motion related and the subsequent answer, on the ground that it now clearly and affirmatively appears that the testimony was purely hearsay, remote, in no way binding upon the respondents, nor within the issues.

Trial Examiner Gates: Motion to strike is

2930

S. M. 1127

denied. It may stand.

Judge Ransom: Exception.

Q. (By Mr. Moscovitz) At that time, what independent organization were you a member of? A. I was a member of the C.I.O.

Q. And did they go out and circulate the cards or speak with the men again? A. Well, they decided—see, we got two days every month for to contact the men.

Q. Who gave you those two days? A. The management told us we were entitled to two days to contact the men.

2931

Q. How long had you been receiving those two days? A. When I was a representative.

Q. Since you were a representative? A. Yes, we got three days altogether. We got one for attending a meeting and two days to contact the men on the field.

Q. That was also given to the other representatives? A. Yes, in the overhead bureau that I know of.

Q. How about the other bureaus? A. I don't know about the other men.

Q. In the overhead bureau, though, you got that? A. Yes, sir.

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Q. That was time for which you were paid by the

S. M. 1128

company? A. Yes.

Q. All right. A. So Monday was supposed to be our contact day. Instead of we going out and contacting the men, we decided to go to the general council office in the Gas & Electric Building in Roosevelt Avenue and decide what would be done about the cards and we went over there and Sutton called up Pat Cary, chairman of the general council, and he came there and he told me that I done a very bad job of it and that he didn't know how he was going to go back to the management and show them only 23 cards signed, when there should be 160 and 170 signed, so—

Q. Was that the number of men that were employed?

A. In that bureau, yes.

Q. Yes. A. And that section, that is only a section of a bureau.

Q. What section is it? A. That is the Elmhurst section.

Q. Yes. A. And he said, "What objection have they to signing the cards if you did not influence them in any way?" I said, "A lot of fellows think that just because there is a label stamp on the cards, the first time the company ever handed out any literature with a labor stamp on it and a lot of them were figuring that the

S. M. 1129

company was intending bringing the I.B.E.W. to fight the C.I.O." That was one of the objections, I told him. Well, he said, "I don't know anything about any outside organization, but if I had my choice I think I would pick the C.I.O.," and he said, "You have got to take the cards out again and contact the men, but I will leave you out of it this time."

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2935

I told him I was the only elected representative from the Elmhurst district and I felt that I should be there, even if I did not have anything to say.

Q. Who told you that? A. Pat Cary.

Q. Yes. A. So we did not agree on taking the cards out and they were never taken out again, anyway.

Q. Yes, in what bureau was Cary employed? A. I don't know what bureau, he came from, but he was chairman of the general council.

Q. Yes, is he still employed in the company? A. So far as I know, he may be released for the setting up of this new union at this time, I could not say that, but the I.B.E.W., he is very actively connected with it.

2936

Q. You mean actively connected now with the I.B.E.W.? A. That's right.

Q. Since when do you know that fact? A. That he is connected with it?

S. M. 1130

Q. Yes. A. Ever since the company recognizes the I.B.E.W., he has identified himself with it as being their leading man in Queens.

Q. Yes, did you see Martini at all after that regarding the cards? A. Yes, regarding the pledge cards.

2937

Q. Yes. A. Well, he was the day there we had the discussion.

Q. Did you see Martini and any of the superintendents at any time after that? A. Oh, yes, whenever the company recognized the I.B.E.W. they called a special meeting in the Gas & Electric Building, the day following, and I was not asked there, but Martini was and he came back to Elmhurst plant and I met him there at noon hour and he told me he had been at a meeting that morning and I wondered why I was not asked there. He told me a lot of things were developing, he said, "I guess you

2938

*John Young—For N.L.R.B.—Direct*

see in the newspapers yesterday where the company recognized the I.B.E.W.?"

I said, "I did," and I says, "Does the company union still exist?" And he said, "Yes."

I said, "For how long?" And he said, "I don't know," and I says, "If it still exists I am still a representative," and I had every right to be at that meeting

S. M. 1131

2939

to represent those people that elected me here.

He says, "Well, I can't answer that, I was only notified to be there myself," but he said, "I have not any time to talk to you now because I am going to the superintendent's office in Flushing." So he left me immediately and after a couple of hours he returned and he set himself up inside in the superintendent's office in Elmhurst, the district superintendent's office.

Q. You saw that? A. Yes.

Q. What was the district superintendent's name. A. James Connelly.

Q. Yes. A. And he called the men in, each gang at the time, a gang consists of anywhere from 68 men, he asked them to sign those I.B.E.W.

2940

Q. Cards? A. Yes.

Q. Application cards? A. Application cards.

Q. Yes. This was how many—go ahead. A. I happened to be in the second gang that was called in there and I asked him what he was doing that for, and he said, "If you were told to go out and do any job while you were in working hours you would do it, too, I was asked

S. M. 1132

to do this, this is my regular day's work and that is why I am doing it.



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2941

Judge Ransom: I move to strike out the answer as not in any way within the issues or binding upon any of the respondents.

Trial Examiner Gates: It may stand.

Judge Ransom: Exception.

The Witness: And I asked him what he knew about this union for the employees and he told me he didn't know anything about it.

Q. (By Mr. Moscovitz) That is the I.B.E.W.? A. Yes, I told him that he was very foolish as a representative to be trying to get the employees to sign application blanks for a union to bind them to something that he did not know anything about, I asked him if he ever saw the constitution of it, if he knew what a Class B charter was, and he didn't know anything about it, he was just told do a job and he was doing it.

2942

I said, "That's the reason I wasn't asked to the meeting this morning because they thought that they might have some opposition there."

Q. Well, was the assistant superintendent there? A. Yes.

Judge Ransom: Martini?

The Witness: No.

2943

S. M. 1133

Q. (By Mr. Moscovitz) I say, was the assistant superintendent there at the time Martini was in the superintendent's office. A. That's right.

Q. What is his name? A. Richard Wessell.

Q. And the superintendent was there? A. Yes.

Q. Was there any other assistant superintendent there? A. There were general foremen there.

Q. How many? A. There were three.

Q. Do you remember the names? A. One of them was Clarence Fogel, John Sheridan and Tom Green.



2944

*John Young—For N.L.R.B.—Cross*

Q. And they were there during the period of time that Martini was engaged in the activity which you have just described? A. That's right.

Q. When you say the superintendent and the assistant superintendent and the three general foremen were there, do you mean that they were standing around in the room or Martini was there speaking with these crews? A. Well, there happened to be about three desks in the room and Martini had one of them and they were about their regular business of the other two:

2945

S. M. 1134

Q. And right in the immediate— A. Room.

Q. Room? A. Office.

Q. And immediately next to Martini? A. That's right.

Q. And in his presence? A. Right.

Q. That is the head office in that plant, isn't it? A. That's right.

Q. How many days was this after Martini had been hanging out the E.R.P. cards? A. The week before he was handing out the E.R.P. cards.

2946

Mr. Moscovitz: That is all.

#### CROSS EXAMINATION:

Q. (By Mr. Ransom) You are a lineman in the Flushing Elmhurst division? A. Elmhurst district, yes.

Q. How long have you been employed in the company? A. Almost 12 years.

Q. And what was the first labor organization with which you became identified? A. The Brotherhood of Utility Employees.

Q. When was that? A. About the Spring of 1935.

S. M. 1135

Q. That is the so-called Independent Brotherhood of which Mr. Emler and Mr. Wagner and Mr. Kennedy have testified? A. That's right.

Q. And you were quite active in that organization, while it was in existence were you not? A. I was a member. Every member is supposed to be active. That is all.

Q. Well, you were active, were you not, with Mr. Wersing and Mr. Kennedy? A. Well, they were officers of the union and I was just a member.

2948

Q. Did you serve on any committees with them, concerning which they have testified? A. Not on any committee that I can recall. We didn't have very many committees except that sometimes we made—on one occasion we made contact with the management when the officers of the union were laid off.

Q. Well, you were on the committee for the Brotherhood of Utility Employees which went to the management, weren't you? A. That's right, sir.

Q. And that was with respect to the laying-off of what employees that you went to the management for?

A. Martin Wersing, Michael Wagner and Jake Grulich.

2949

Q. Were you here to hear the testimony that was

S. M. 1136

given about that? A. No, sir.

Q. You were not? A. No, sir.

Q. Now, you were active in the Independent Brotherhood of Utility Employees until that local went into the I.B.E.W., weren't you? A. That's right, sir.

Q. And when was it that the Independent Brotherhood went into the I.B.E.W., as you recall it? A. As I recall it, it must be in the Spring of 1936.

2950

*John Young—For N.L.R.B.—Cross*

Q. Were you elected on your overhead bureau council as a representative of the Elmhurst district in 1934? A. I was.

Q. So you served as a member of your overhead bureau council under the E.R.P. from May or June of 1934 up to the same time in 1935? A. That's right.

Q. And you were nominated and elected by the employees in that district? A. That's right.

Q. Then in the month of May or June, 1935, you were again nominated and elected by the employees? A. (No response.)

2951

Q. To the same position? A. (No response.)

S. M. 1137

Q. That is right; isn't it? A. (No response.)

Q. Don't shake your head, just answer. A. That's right.

Q. And after you had been elected, you declined to serve that year? A. That's right, because the majority of the men that I was representing didn't want to do anything about that, didn't want to have anything to do with it.

2952

Q. So that the year 1935-'36 you did not serve on your bureau council? A. No, sir.

Q. Your bureau council which at that time was made up of representatives of the Elmhurst district and the Jamaica district and was then the Flushing district? A. What year was that, sir?

Q. '34 or '35? A. Yes, we had the Flushing district in 1934.

Q. And then the Flushing district was later merged into the Elmhurst district? A. That's right.

Q. This Mr. Sutton, George Sutton, whom you have spoken of as chairman of the bureau council, was from the Jamaica district, wasn't he? A. That's right.